

# Public Utilities

*FORTNIGHTLY*

Volume XLV No. 10



May 11, 1950

## WILL FPC GAS REGULATION AFFECT THE FUEL MARKETS?

*By Edward Falck*

« »

## Stronger Opposition to Utility Socialization

*By Alfred M. Cooper*

« »

## Fly Ash Disposal—How to Be Optimistic Though Vexed!

*By Howard J. Carswell*

« »

## Is Free Trouble Shooting an Opportunity?

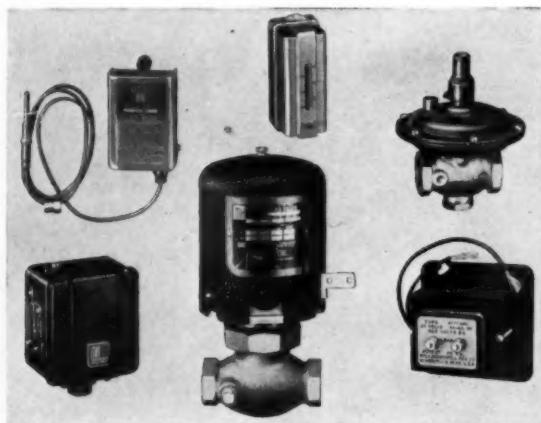
*By James H. Collins*

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Latest design Barber 324-B round Conversion Burner with improved controls, encased in streamlined hood. Tested and certified by ASA Laboratory under new 1949 listing requirements.

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# Public Utilities

## FORTNIGHTLY

VOLUME XLV

MAY 11, 1950

NUMBER 10



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# "Fresh Air" boilers aid

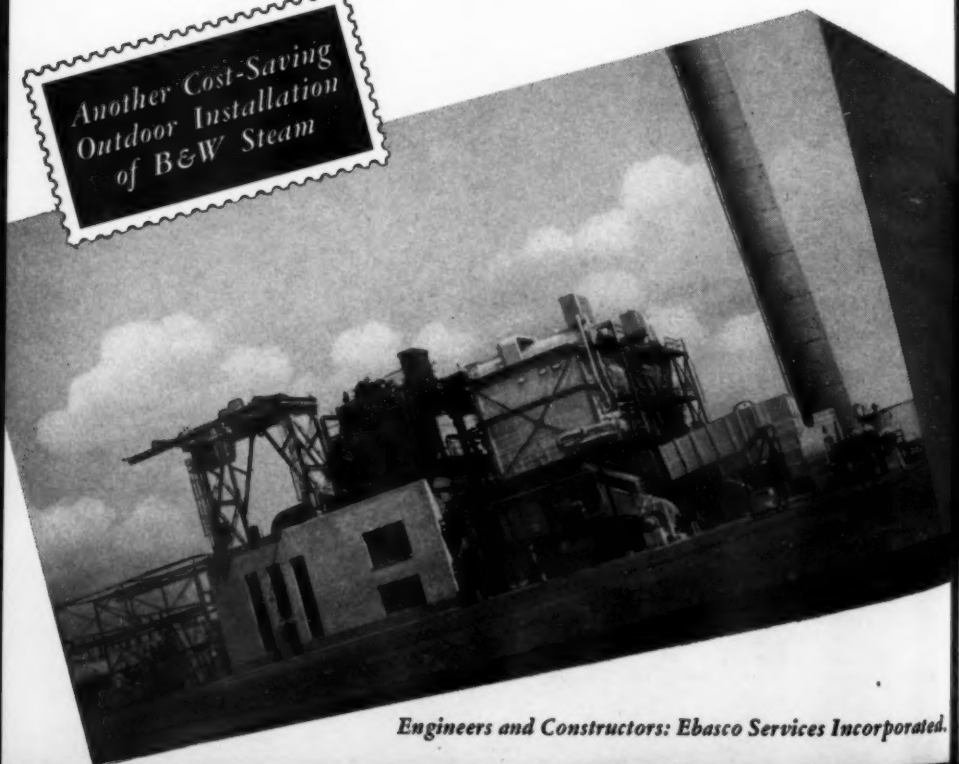
## OF NEW HANDLEY STATION

Incorporating the latest advances in simplification of steam electric plants, New Handley Station of Texas Electric Service Company, Fort Worth, Texas, is a good example of the initial economies afforded by outdoor construction. Here, not only the boilers but also the turbo-generator, condenser, fans, and various other auxiliaries are in the open. Supplying steam requirements for a 43,750-kw turbo-generator are two 215,000 lb. per hr. B&W

Integral-Furnace Boilers, as illustrated.

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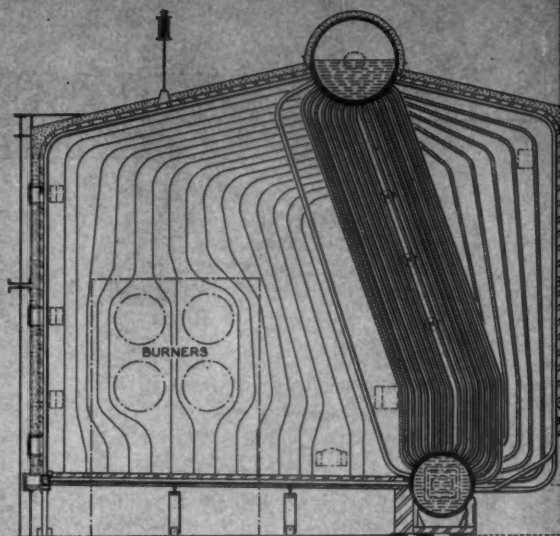


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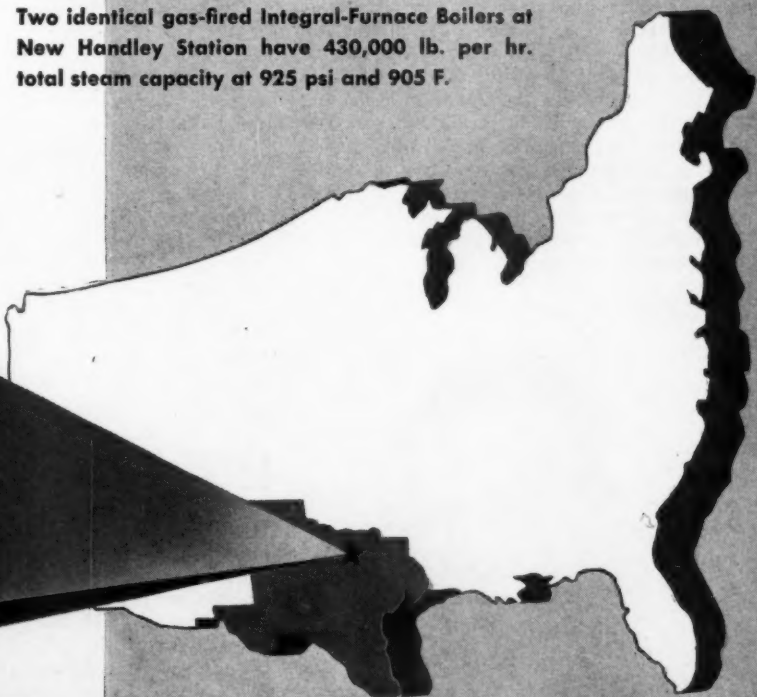


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Two identical gas-fired Integral-Furnace Boilers at New Handley Station have 430,000 lb. per hr. total steam capacity at 925 psi and 905 F.



**BABCOCK  
& WILCOX**

## Pages with the Editors

THE recent action of President Truman in vetoing the Kerr Bill to exempt certain natural gas production from Federal regulation, places new emphasis on the future fuel policy of the nation. It might be added, somewhat cynically, that the fuel policy of the nation, so far, has been conspicuous by its absence. We witness today a steady decline in the market prospects for huge coal reserves in contrast with the skyrocketing demand for natural gas which, some authorities hold, can be exhausted within the life of the present generation.

To complicate this picture, our Federal government seems presently committed to a policy of more regulation at lower prices for natural gas plus a "do nothing" policy for coal, in the face of factors likely to result in increasing coal prices. Whether there will be a change, in this somewhat illogical picture of permitting coal to price itself out of a fuel market through the promotion of abnormally low-cost gas service, is one of the most important questions in the field of regulation confronting the Federal Power Commission.

THERE is the further complication of



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EDWARD FALCK

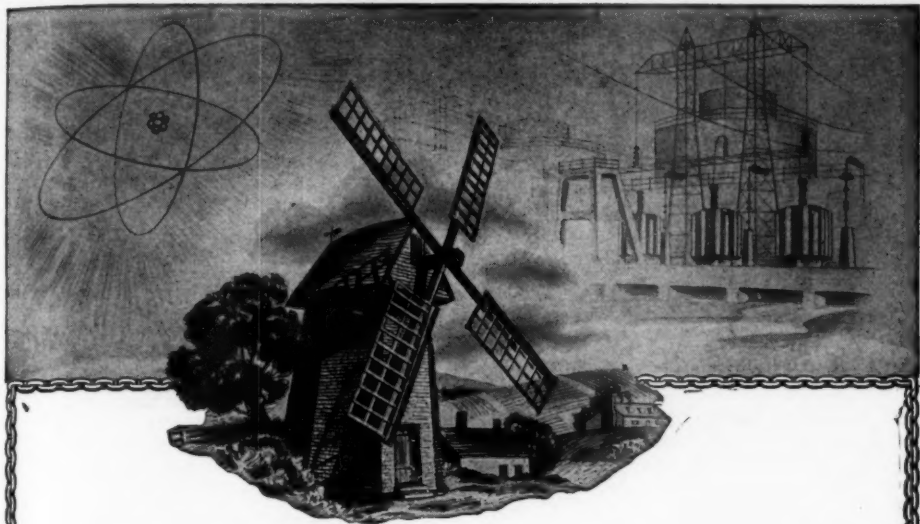


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HOWARD J. CARSWELL

oil prices and oil reserves. Would these irreplaceable and exhaustible fuels bring about their own economic balance, both as to production and consuming markets, if competitive conditions were assured? The leading article in this issue, by a noted consulting engineer, contains a persuasive presentation of facts and analyses suggesting the superiority of normal competitive forces in bringing about a fuel economy more conducive to public interest than any artificial "benefits" that might result from complete government control of fuel markets.

EDWARD FALCK, author of this article, entitled "Will FPC Gas Regulation Affect the Fuel Markets?" is a native of New York city. He was educated at Columbia University (AB, '30; BS, '31; MS, '32). He became director of rates and research with the Tennessee Valley Authority in 1933. In 1937 he became associated with the private power industry as a special assistant to the vice president of the Consolidated Edison Company of New York city. During the war, FALCK came to Washington to serve with the War Production Board. He will be best recalled by many readers for his



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Has your organization a comprehensive program geared to present-day financial conditions? Are your financing methods and your approach to the financial

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If you would like to discuss these questions or others in connection with your business, the specialists in our Public Utilities Department will welcome the opportunity. They are fully qualified to give the expert guidance which may be of assistance to you.

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work in the old WPB Office of War Utilities, of which he became the director in 1944, succeeding Julius A. Krug. Since the end of the war, Mr. FALCK has been engaged in private practice as a consulting engineer with offices in New York and Washington. The gist of Mr. FALCK's discussion was originally presented in an address before the third annual convention of the National Federation of Financial Analysts Societies in New York city last March.

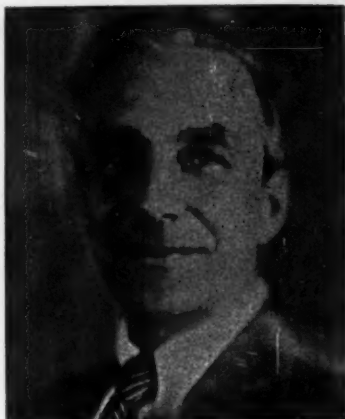
\* \* \* \*

**I**T is an interesting fact that the world-wide trend towards state Socialism, which reached a peak in free democratic countries shortly after the end of World War II, has been noticeably subsiding in recent months. Last November, New Zealand threw out a socialist government after fourteen years in power. The following month, Australia did likewise to a labor-socialist government after eight years in power. Shortly thereafter the voters of Great Britain came within a figurative inch or so of turning the British Labor party out of control after five years of power. Truly socialist parties in France, Italy, and western Germany, which reached the peak of strength right after the war, have all since lost ground steadily.

If one is disposed to take the broad view that major ideological trends are basically international, and that domestic variations merely constitute projections or lags in the world-wide tidal current of opinion, there may be some food for thought here, with respect to our own situation. Has the confusion of national and international postwar problems obscured the fundamental fact that public opinion in this country, as well as abroad, is turning right? ALFRED M. COOPER of Desert Center, California, well-known author of articles on business economics, has undertaken an analysis of certain signs of shifting sentiment on the specific question of utility socialization.

\* \* \* \*

**L**AST Thanksgiving, JAMES H. COLLINS of Hollywood, California, whose articles on business developments have MAY 11, 1950



JAMES H. COLLINS

frequently appeared in this magazine, had guests for dinner. It was on such an occasion that the family gas range exercised what Edgar Allan Poe would call "the innate perversity of inanimate objects." It went on the blink. What happened to Mr. COLLINS' complaint and request for emergency service is the subject of his article, "Is Free Trouble Shooting an Opportunity?"

\* \* \* \*

**E**LECTRIC utilities have long been annoyed by the problem created by small particle residues resulting from solid fuel combustion. Now it appears the ugly duckling has been transformed into a valuable asset. Fly ash, as such matter is popularly termed, can be put to work at a surprising number of worth-while jobs. The author, HOWARD J. CARSWELL of the Bituminous Coal Institute, introduces the word "pozzolan" to the lexicon of engineering—in connection with coal-consuming power plant operations. For the origin of this word he takes us back through the centuries, citing an interesting prototype put to man's purposes in the heyday of an earlier civilization.

THE next number of this magazine will be out May 25th.

*The Editors*



## We can dig up the facts in $\frac{1}{2}$ the time!

**L**ET us come up with the facts about consumers' usage data for you.

We can analyze your bills in  $\frac{1}{2}$  the time it would normally take in your office—and at approximately  $\frac{1}{2}$  the cost.

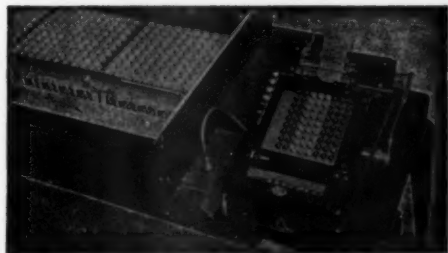
### How? Why?

Our trained personnel use the Bill Frequency Analyzer—which we designed especially for utility use. This electro-mechanical equipment analyzes as many as 200,000 bills each day. The cost to you, therefore, is but a tiny fraction of a cent per item.

We do customer usage data day after day for many utilities all over America. We'd like to go to work for you, too.

### Want more facts?

Send for the **FREE** booklet, "The One Step Method of Bill Analysis" that gives you the facts about this accurate and economical method of compiling consumers' usage data.



This Bill Frequency Analyzer—developed especially for utility usage data—automatically classifies and adds in 300 registers in one step.

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# Coming IN THE NEXT ISSUE



## **LET'S LOOK AT FEDERAL AGENCY LOBBYING**

One of the most closely watched special investigations now going on in Congress is the House committee probe of lobbying activity. A great question mark is how the congressional committee will be able to overlook the fact that the biggest and most effective lobbyist in Washington, today, is the Federal government itself. Frank T. Bow, former general counsel of the House Expenditures Subcommittee on Publicity and Propaganda, has prepared for us an account of government agency lobbying in general, but with particular reference to its effect on gas, electric, and telephone industries. This manuscript contains hitherto unpublished material about Federal agency activities.

## **THE SALE AND LEASE BACK OF CORPORATE PROPERTY**

Within the last few years national chain stores and other commercial organizations have been able to work out a mutually beneficial arrangement with institutional investors for the construction of their stores, office buildings, and other operating properties. Life insurance companies, for example, find a safe long-term and well-paying placement for their deposited funds by investing in such properties which can be in turn leased over the full period to the operating business interests. The latter thereby obtain the release of their own funds for future expansion or operating purposes. Ernest R. Abrams, New York business author, has applied this proposal to public utility companies.

## **WHAT PRICE RIGHTS?**

Frequently the market quotation of rights to buy newly issued utility shares is so little—with relation to the open market value of such securities—that it hardly pays the owner to market them, if he does not care to exercise such rights. Is public utility management overlooking a valuable angle of investor relations when it fails to make sure that the rights of common shareholders are really worth something? W. F. Stanley, vice president of Southwestern Public Service Company, has analyzed this.

## **SHOULD PRICE LEVELS AFFECT DEPRECIATION ACCRUAL?**

Recent reports of public utility corporations show that management has become worried over the problem presented in the need for replacing retired plant at current high-price levels, although depreciation reserves are being accrued at original low-cost levels. Clyde Olin Fisher, former chairman of the Connecticut Public Utilities Commission, discusses the economic factors involved in the relationship between changing price levels and the bases for accruing depreciation reserves.



**Also . . .** Special financial news, digests, and interpretations of court and commission decisions, general news happenings, reviews, Washington gossip, and other features of interest to public utility regulators, companies, executives, financial experts, employees, investors, and others.



*This announcement appears as a matter of record only and is neither an offer to sell, nor a solicitation of an offer to buy any of these securities.*

**232,520 Shares\***

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**Common Stock**

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\*These shares were offered to the common stockholders of the Company and to employees, including officers, of the Company and its subsidiaries, and 214,049 shares were subscribed for. The remaining 18,471 shares have been sold by the underwriters in accordance with the terms of offering as set forth in the Prospectus as supplemented.

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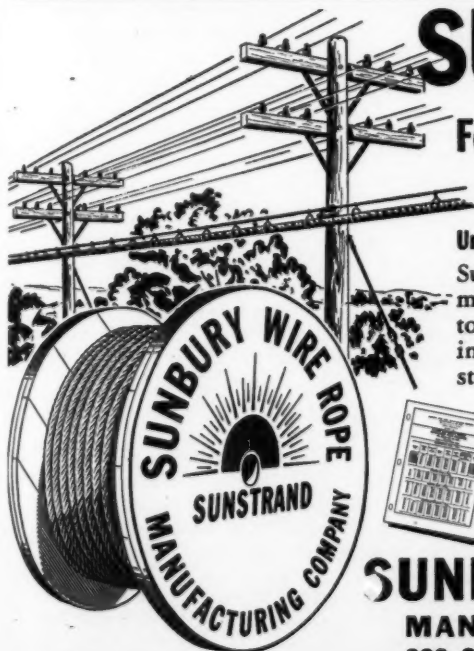
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April 26, 1950



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# Remarkable Remarks

*"There never was in the world two opinions alike."*

—MONTAIGNE

DWIGHT D. EISENHOWER  
*President, Columbia University.*

"Lincoln saw no reason for our government to do things 'to' us like some bureaucrats now find so intriguing."

W. RANDOLPH BURGESS  
*Chairman, executive committee,  
National City Bank of New York.*

"What we need to do as a nation is sit down soberly and carefully, review our accounts, and see how we can bring them into balance. We are a family that spends more than it receives."

EMIL SCHRAM  
*President, New York Stock  
Exchange.*

"We are in the midst of a great economic revolution which, in my judgment, will extend industrial progress beyond the dreams of the most optimistic, unless it is throttled by shortsighted tax policy."

HAROLD M. STEWART  
*Executive vice president, Pruden-  
tial Insurance Company of  
America.*

"We are facing reality when we accept the fact that we must be in tune with tomorrow's society. We must identify ourselves to a greater extent with the basic aspirations and desires of the public for a better tomorrow."

JESSE P. WOLCOTT  
*U. S. Representative from  
Michigan.*

"We are within 8 per cent of Socialism. History indicates Socialism arrives whenever a nation takes as much as 40 per cent of the people's income in taxes, and we now are using up 32 per cent of national income in taxes or deficit spending."

THOMAS JEFFERSON

"I place economy among the first and most important virtues, and public debt as the greatest of dangers . . . We must make our choice between economy and liberty, or profusion and servitude. If we can prevent the government from wasting the labors of the people under the pretense of caring for them, they will be happy."

LOUIS I. NEWMAN  
*Rabbi, Temple Rodeph Shalom.*

"The higher placed our leadership, and the more affluent, the greater its sense of public responsibility should be. The social leaders of our day are making a crucial blunder if they imagine that by seeking to undermine social welfare legislation, they are serving their country or themselves well. The masses of the people will reject anything which will stimulate insecurity and instability for themselves and their family, however sugar-coated the phrase or its contents may be."



## Can You Be Confident?

**I**F in conjunction with your next annual meeting—or at some contemplated special meeting—proposals other than routine are to be voted upon—to raise debt ceiling—authorize new securities—grant conversion privilege for convertible bonds, etc.—can you feel confident that your stockholders will support management's recommendations with adequate votes of approval—on time?

Such an important meeting frequently merits provision of special handling—utilizing the services of our proxy soliciting organization as a form of insurance that the meeting will be successfully held on scheduled date.

Our record of performance for the utility industry is outstanding. We invite your inquiry for additional information.

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JOHN TABER  
U. S. Representative from New  
York.

"The day of easy come, easy go appropriations is over. The American taxpayers want to know what this money is being spent for, how much waste can be eliminated, and what prospects there are to get some relief from the enormous burden they bear."

CHARLES A. HALLECK  
U. S. Representative from  
Indiana.

"We cannot escape the fact that the world today is caught up in a cycle of political despair. It is not a condition peculiar to any one country, it reaches into every corner of the globe. Politically, this doctrine of despair travels under many labels. It is called Communism in one country, Socialism in another, Fascism in another, Nazism in another, and so on. But whatever labels you sew in, you still get the same thing—statism."

FORREST H. KIRKPATRICK  
Dean, Bethany College.

"Management must quit trying to find one cause for every problem in human relations in industry. There is no simple answer, no one magic act, such as company picnics, or softball games, or soft music along the production line. Management must search out the needs and interests of each individual employee. It needs to get at the facts in the area of human relations, and this calls for much more research in the field of personnel."

L. R. BOULWARE  
Vice president, General Electric  
Company.

"Good training programs and other similar personnel programs are not luxuries to be afforded in good times. They are prime necessities at all times—and especially in periods of softening markets when employers and employees have to buckle down to working together more creatively, more earnestly, and more productively in the common interest of attracting more customers with better goods at prices representing obviously better values."

JOSEPH A. HOBAN  
General manager, B. F. Goodrich  
Company.

"There is no reason for a depression in the United States, if the managers of industry and business will put to work all the energies and talents of inspired salesmanship at their disposal. Return of conditions where the customer is the absolute ruler, the so-called 'buyers' market' should be welcomed by alert business management. In many respects it is like a blood transfusion to a sick patient, and in the long run will prove beneficial to the business structure."

GEORGE E. SOKOLSKY  
Columnist.

"... we are coming dangerously close to what Mr. Hoover . . . called the 'last mile to collectivism.' If that is what the American people want, they can, of course, continue to vote for it, and we shall have it. But nothing that has happened under the various brands of Socialism tried in Europe, the Fascism of Italy and Germany, the Communism of Russia and her satellites, the Fabianism of Great Britain—justify the assumption that Socialism is a superior system to Capitalism."

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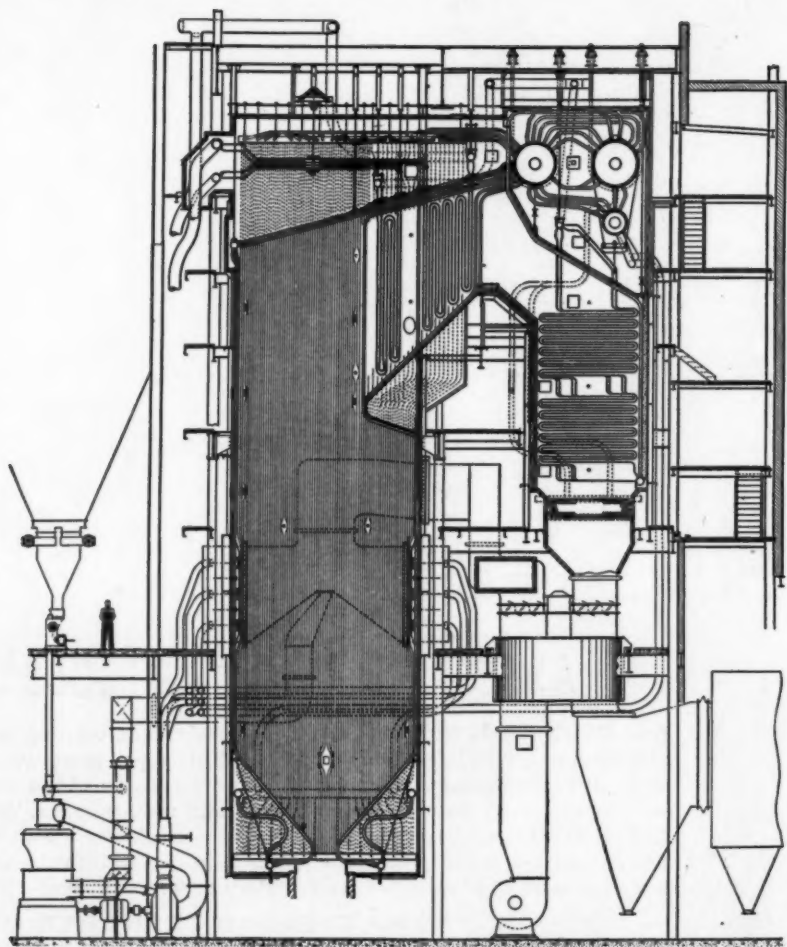
Your CLEVELAND TRENCHERS protect your profits by protecting your estimates and schedules. Every CLEVELAND gives you more work—more different kinds of work—during more months of the year—with less costly down-time for repair and maintenance. With CLEVELANDS your trench is "On Time—Everytime". Check with the nearest utility or municipality that has standardized on CLEVELANDS. See your local distributor for the full story or write direct.

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# C-E *REHEAT* BOILERS



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# RUSSELL STATION

## ROCHESTER GAS AND ELECTRIC CORPORATION

The C-E Unit illustrated here is now in process of erection at the Russell Station of the Rochester Gas and Electric Corporation at Charlotte, New York.

It is a reheat unit designed to serve a 62,500-kw turbine generator operating at an initial steam pressure of 1450 psi at 1000° F reheated to 1000° F.

The unit is of the radiant type with a reheater section located between the primary and secondary superheater surface. A finned tube economizer is located below the rear superheater section, and regenerative air heaters follow the economizer surface.

The furnace is fully water cooled, using closely spaced plain tubes except in the roof section, where finned tubes are employed. It is of the basket-bottom type, discharging to a sluicing hopper.

Pulverized coal firing is employed, using bowl mills and vertically-adjustable, tangential burners.


B-386A



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- 2. Better employee relations**
- 3. Lowered costs**

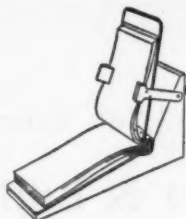
If you would like to talk with one of our representatives about cost-cutting on a "show-me" basis, please phone your local Remington Rand office. There is no obligation, of course.





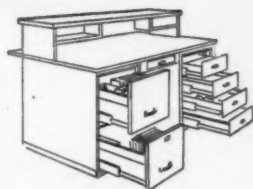
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A trained staff of experienced supervisors is available to work with you in your own office in leveling out the load of Meter Reading and its subsequent operations.



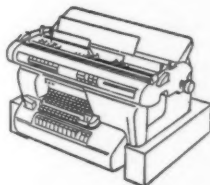
### METER READING BINDERS AND FORMS

Binders, forms and auxiliary equipment designed with knowledge of the job to be done by the Meter Reader, the Bookkeeper and the Billing Machine Operator.



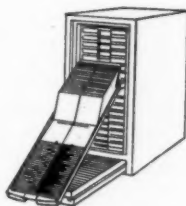
### BOOKKEEPING DESKS

Functionally designed for any plan of bookkeeping — whether the "Stub", "Register", "Tab Card", or "Ledger Card". A standard line of insulated equipment for 24-hour fire protection.



### BILLING MACHINES

The "Foremost", for medium and large utilities; *Tabulating Machines*, for complex rate structures and for statistics; *Synchromatic*, for punched cards as a by-product of billing.



### VISIBLE EQUIPMENT FOR CUSTOMER RECORDS

Over 200 installations of Customer History, Customer Service, Meter History (and Test), and Unit Bookkeeping, today are giving lowered costs to their users.



### INSTALLATION SERVICE

A trained staff of skilled personnel is maintained at all times to make the installations, train your personnel in the new systems, and provide a Manual of Operation.

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NEW ISSUE

133,786 Shares

## Texas Power & Light Company

**\$4.56 Preferred Stock**

(without nominal or par value)

Pursuant to the Exchange Offer, described in the Prospectus, the holders of the 65,000 shares of the Company's 7% Preferred Stock and the 68,786 shares of the Company's \$6. Preferred Stock are offered an opportunity to exchange such stock for \$4.56 Preferred Stock, until 3 P.M., Central Standard Time, May 17, 1950. The number of shares to be offered to the public will accordingly be reduced by the number of shares delivered on such exchange. The public offering will include 420 shares of \$4.56 Preferred Stock, to be purchased by the underwriters from the Company, representing shares to be received in exchange by the Company for shares of 7% Preferred Stock and \$6. Preferred Stock reacquired by the Company and held in its treasury.

---

**Price \$110 per Share**

Plus accumulated dividends from May 1, 1950

---

*Copies of the Prospectus may be obtained in any State in which this announcement is circulated from only such of the underwriters, including the undersigned, as may legally offer these securities in such State*

**Kidder, Peabody & Co.**

**Merrill Lynch, Pierce, Fenner & Beane**

**Union Securities Corporation**

**Dallas Union Trust Co.**

**First Southwest Company**

**Rauscher, Pierce & Co. Inc.**

**Dewar, Robertson & Pancoast**

**Russ & Company**  
Incorporated

**William N. Edwards & Co.**

**Rotan Mosle and Moreland, Inc.**

**Underwood, Neuhaus & Co.**

*April 26, 1950.*

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NEW ISSUE

**70,000 Shares**  
**Texas Power & Light Company**

**\$4.00 Preferred Stock**  
(without nominal or par value)

---

**Price \$100 per Share**  
Plus accumulated dividends from May 1, 1950

---

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**Union Securities Corporation**

**Kidder, Peabody & Co.**

**Merrill Lynch, Pierce, Fenner & Beane**

**White, Weld & Co.**

**Salomon Bros. & Hutzler**

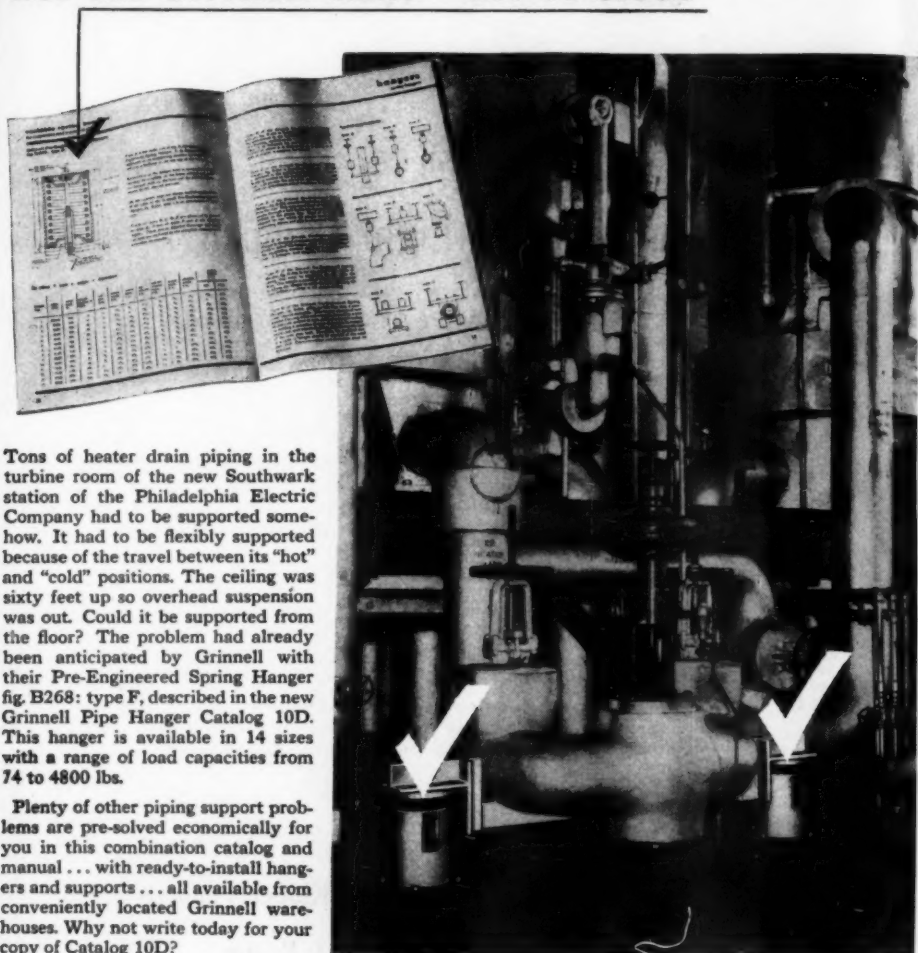
**Dallas Union Trust Co.**

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*April 25, 1950.*

## The problem was "special" but the solution came "out of stock"



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LEADS IN USABLE TORQUE	YES	NO	NO	NO	NO
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TORSIONAL DAMPENER for engine smoothness	YES	YES	YES	NO	YES
BUILT-IN RADIATOR EXPANSION TANK—prevents coolant loss	YES	NO	NO	NO	NO
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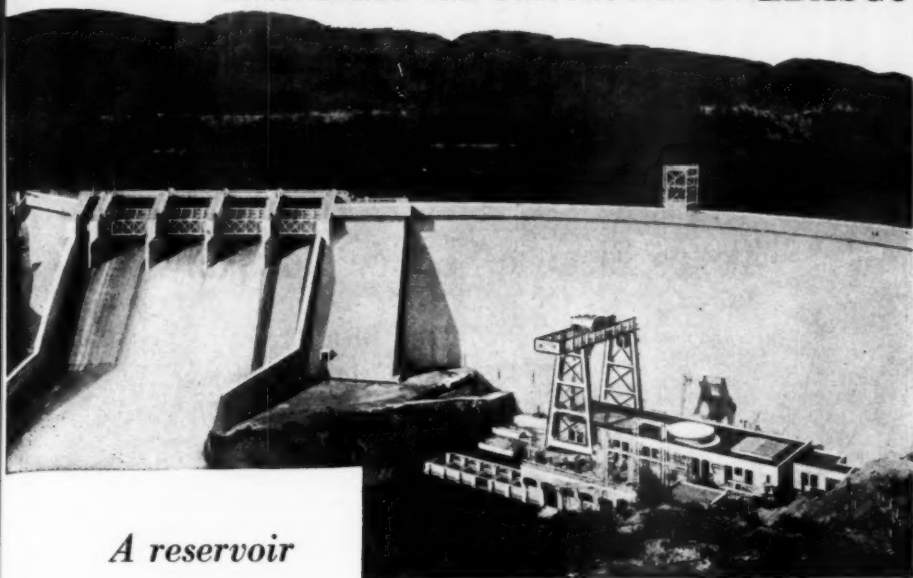
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NEW ISSUE

**65,000 Shares**

**Texas Electric Service Company**

**\$4.56 Preferred Stock**

(without nominal or Par Value)

Pursuant to the Exchange Offer, described in the Prospectus, the holders of the 62,613 shares of the Company's \$6 Preferred Stock outstanding in the hands of the public are offered an opportunity to exchange such stock for \$4.56 Preferred Stock, until 3 P.M., Central Standard Time, May 26, 1950. The number of shares to be offered to the public will accordingly be reduced by the number of shares delivered on such exchange. The public offering will also include 2,387 shares of \$4.56 Preferred Stock, to be purchased by the underwriters from the Company, representing shares to be received in exchange by the Company for shares of \$6 Preferred Stock reacquired by the Company and held in its treasury.

---

**Price \$110 per Share**

Plus accumulated dividends from May 1, 1950

---

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**Merrill Lynch, Pierce, Fenner & Beane**

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**Underwood, Neuhaus & Co.**

*April 28, 1950.*

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NEW ISSUE

**110,000 Shares**  
**Texas Electric Service Company**  
**\$4 Preferred Stock**  
(without nominal or Par Value)

---

**Price \$100 per Share**  
Plus accumulated dividends from May 1, 1950

---

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*April 27, 1950.*

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# Utilities Almanack



## MAY



11	T <sup>a</sup>	¶ American Gas Association begins executive conference, Colorado Springs, Colo., 1950.
12	F	¶ New Jersey Utilities Association begins spring conference, Absecon, N. J., 1950. ¶ Public Utilities Advertising Asso. ends convention, Kansas City, Mo., 1950.
13	S <sup>a</sup>	¶ American Water Works Association, Pacific Northwest Section, ends annual meeting, Tacoma, Wash., 1950.
14	S	¶ Edison Electric Institute, Transmission and Distribution Committee, will hold meeting, Denver, Colo., May 25, 26, 1950.
15	M	¶ National Fire Protection Association begins annual meeting, Atlantic City, N. J., 1950.
16	T <sup>u</sup>	¶ Missouri Valley Electric Association begins meeting, Kansas City, Mo., 1950. ¶ Pennsylvania Gas Association begins meeting, Wernersville, Pa., 1950. 
17	W	¶ Kansas Telephone Association ends convention, Topeka, Kan., 1950. ¶ Wisconsin State Telephone Association ends convention, Madison, Wis., 1950.
18	T <sup>a</sup>	¶ Pennsylvania Electric Association, Systems Operation Committee, begins spring meeting, Skytop, Pa., 1950.
19	F	¶ Natural Gas and Petroleum Association of Canada will hold annual convention, Windsor, Ontario, Canada, May 25, 26, 1950.
20	S <sup>a</sup>	¶ Pacific Coast Electrical Association will hold annual convention, Reno, Nev., May 31-June 2, 1950.
21	S	¶ American Water Works Association begins annual conference, Philadelphia, Pa., 1950.
22	M	¶ American Gas Association begins production and chemical conference, New York, N. Y., 1950.
23	T <sup>u</sup>	¶ National District Heating Association begins meeting, Asheville, N. C., 1950. ¶ North Carolina Asso. of Broadcasters ends convention, Chapel Hill, N. C., 1950.
24	W	¶ New York State Telephone Association begins annual convention, Rochester, N. Y., 1950. 

## Highways of Fuel



Photograph by Harold M. Lambert

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# Public Utilities

FORTNIGHTLY

VOL. XLV, No. 10



MAY 11, 1950

## Will FPC Gas Regulation Affect The Fuel Markets?

*President Truman's recent veto of a bill to exempt natural gas production from Federal regulation has placed new emphasis upon the regulatory policy of the Federal Power Commission. Now that congressional legislation is out of the picture for the immediate future, the FPC is in a position to permit natural gas and oil prices to come into balance both as to production and consuming markets. Will it recognize the superiority of normal competitive forces in bringing about a fuel economy more conducive to public interest than any artificial "benefits" that might result from complete government control of fuel markets?*

By EDWARD FALCK\*

ANY discussion of the need or desirability of formulating a Federal fuel policy must be based on a recognition of the fact that coal, oil, and natural gas are competing fuels. The major factors affecting interfuel competition are (1) energy

content, (2) efficiency of combustion, (3) continuity of supply, and (4) price. For the years 1946 and 1949 the total energy supply of the United States as reported by the U. S. Bureau of Mines was subdivided as follows:

	1946	1949
Coal .....	48%	38%
Oil (including imports) ..	35	39
Natural gas .....	13	18
Hydro power .....	4	5
Total .....	100%	100%

\*Consulting engineer, Washington, D. C., formerly director of the Office of War Utilities and now chief utility consultant, National Security Resources Board. See also "Pages with the Editors."

## PUBLIC UTILITIES FORTNIGHTLY

Since the end of the war natural gas and oil have expanded their markets at the expense of coal. Because of continually advancing production costs, coal has been priced out of many markets. According to a statement by Dr. James Boyd, director, U. S. Bureau of Mines, on January 25, 1950:

Production of bituminous coal and lignite dropped from an all-time peak of 631,000,000 tons in 1947 to 600,000,000 tons in 1948, and further to an estimated 435,000,000 tons in 1949. The latter is the lowest annual production since 1939.

ON February 3rd, the Federal Power Commission reported that coal consumption by electric utility power plants during 1949 had dropped 15.6 per cent below the record use of 1948, while fuel oil and gas consumption set new records. The release stated:

The use of coal in 1949 totaled 84,071,523 tons, which compares with 99,586,341 tons consumed in 1948. Fuel oil requirements in 1949 were 66,302,548 barrels, exceeding 1948 requirements by 55.5 per cent, and gas consumption totaled 549,888,635,000 cubic feet, 15 per cent above 1948.

In recent months there has been increasing concern expressed by certain elements in the oil marketing industry about the inroads being made by natural gas on the market for heating oils. On January 17, 1950, the Secretary of the Interior, Oscar L. Chapman, in response to a proposal made by a member of the National Petroleum Council, sent a letter to its chairman, Walter S. Hallanan, suggesting that a study be made regarding the "interrelationships between the expanding use of natural gas and the domestic production, refining, and marketing of

crude oil and its products with particular reference to light and residual fuel oils." Quoting further from Secretary Chapman's letter:

Therefore, I welcome the proposal made in your letter, and I am pleased to request the National Petroleum Council to appoint a committee to study supplies of and requirements for natural and manufactured gas and heating and fuel oils by geographic areas and by classes of uses. In the event the National Petroleum Council decides to undertake such a study, I shall also request the National Bituminous Coal Advisory Council to make a similar study with respect to solid fuels.

I should hope that means will be found to frame these studies upon common sets of assumptions with respect to scope and relevance of the level of national economic activity in its various sectors, and to otherwise ensure that the individual studies will be sufficiently coordinated that they can be brought together to form a sensible whole. To assist in attaining these objectives, I shall be glad to have one or more of my staff attend meetings of your committee.

THE natural gas industry has undergone a tremendous and continuing expansion since the end of World War II. Many complex and interrelated factors have been responsible for this expansion. Wartime restrictions on the use of coal and oil to domestic users made many people aware of the advantages of natural gas for house heating. Since the end of the war, coal and oil prices have advanced generally by 50 per cent or more while prices for natural gas have remained relatively stable. The whole economy has been prosperous, purchasing power has remained high, and the general public has begun to assert



## WILL FPC GAS REGULATION AFFECT THE FUEL MARKETS?

on a wide scale its pent-up desire for automatic heat. The growth in natural gas sales has been at the expense of manufactured gas, coal, and oil. Everybody, seemingly, has wanted to switch to natural gas. This is because natural gas is not only the most attractive fuel, but it is now generally the cheapest fuel in many areas for house heating and also for many commercial and industrial uses.

Today, the price of natural gas is far below the prevailing price levels of competing fuels. This is in part due to the fact that the Federal Power Commission adheres rigidly and, in the opinion of some experts, unrealistically to the cost basis of regulation. The Federal Power Commission has applied the original cost formula exclusively in its regulation of the wholesale rates of interstate natural gas companies. It can be easily demonstrated that this cost formula leads to absurd results when it is used as a measure of the value of natural gas produced in the field. The cost formula does not give full recognition to the value of producing acreage. It may be noted that natural gas is the only one of the three competing fuels whose value at the point of production is today regulated by the Federal government. The Federal Power Commission cost formula has resulted in allowing some integrated natural gas companies an equivalent field price of less

than 5 cents per thousand cubic feet of gas which is equivalent to less than 35 cents per barrel of crude oil. In still other cases, the Federal Power Commission has allowed an integrated pipe-line company to charge on its books as the value of its own self-produced natural gas, a rate of less than 2 cents per thousand cubic feet, equivalent to less than 14 cents per barrel of crude oil. At the same time, the Federal Power Commission permits the same natural gas company to charge as an operating expense several times as much for gas purchased from other producers.

THE natural gas and oil industries have many similarities and a few dissimilarities. It is well known that oil and gas are found to exist separately and in combination. Many times natural gas has been discovered in drilling for oil. Under recently developed technological processes, oil can be economically converted into a gaseous fuel and gas can be converted into various liquid petroleum products. Both oil and gas can be transported in pipelines. Both oil and gas can be consumed efficiently for a wide variety of residential, commercial, and industrial heat and power uses. Both oil and gas have large present and potential uses in the manufacture of various chemicals. Because of its liquid form, oil can be transported by tankers, tank



**Q** "ANY discussion of the need or desirability of formulating a Federal fuel policy must be based on a recognition of the fact that coal, oil, and natural gas are competing fuels. The major factors affecting interfuel competition are (1) energy content, (2) efficiency of combustion, (3) continuity of supply, and (4) price."

## PUBLIC UTILITIES FORTNIGHTLY

cars, and trucks whereas gas cannot. Also, oil can be stored fairly easily close to the point of use, whereas this is difficult in the case of natural gas. Because of the storage factor, oil can often be used to relieve the peak load problem of natural gas systems, a problem that is becoming more acute as space-heating saturation increases. Oil is used as a stand-by fuel by large users who purchase gas on an interruptible basis.

Natural gas is today being distributed in all parts of the United States with the exception of just three regions—New England, the Pacific Northwest, and some of the South Atlantic states, including Virginia and the Carolinas. Plans are now under way for bringing natural gas into these regions also and several major natural gas pipe-line applications are pending before the Federal Power Commission. What will the effect be of the availability of natural gas in these areas upon markets for fuel oil? Natural gas may not encroach so much upon existing markets for heating oils, but it will obviously be an important competitor for all potential new business. Let us compare the prices of No. 2 fuel oil (heating value 138,500 BTU per gallon) in these prospective new natural gas areas with typical prices for natural gas sold in other areas for residential house heating. The retail prices of residential heating fuels as of December 15, 1949, were:

City	Fuel Oil in Cents Per Gallon	Equivalent Price in Cents Per Million BTU
<i>New England</i>		
Boston, Mass.	11.9	85.6
Manchester, N. H.	12.6	90.6
Portland, Me.	11.9	85.6

### *South Atlantic*

Jacksonville, Fla.	12.5	90.0
Norfolk, Va.	11.0	79.3
Richmond, Va.	11.2	80.6
Savannah, Ga.	12.6	90.7

### *Pacific Northwest*

Portland, Ore.	11.6	83.5
Seattle, Wash.	12.6	90.8

**I**N contrast to the above prices of fuel oil for residential heating, the following prices were being charged for natural gas as of December, 1949:

City	Natural Gas Rate for House Heating in Cents Per Million BTU
Washington, D. C. ....	110.5
Atlanta, Ga. ....	51.2
Pittsburgh, Pa. ....	48.6
Cleveland, Ohio ....	51.2
Cincinnati, Ohio ....	58.4
Detroit, Mich. ....	70.0
Kansas City, Kan. ....	45.1
Houston, Tex. ....	54.4
New Orleans, La. ....	56.0
Memphis, Tenn. ....	56.4
Mobile, Ala. ....	52.9
Denver, Colo. ....	45.1
Los Angeles, Calif. ....	46.3
San Francisco, Calif. ....	34.8

In Detroit, Michigan, where natural gas for house heating is selling at a rate equivalent to 70 cents per million BTU, No. 2 fuel oil for residential heating was selling at 12.9 cents per gallon, equivalent to about 93 cents per million BTU. As of August 1, 1949, there were about 85,000 gas house-heating customers in Detroit. Between that date and January, 1950, it is reported that some 95,000 gas applications for house heating have been filed. Thus, the total number of customers using natural gas for house heating will probably have doubled in less than a year. This development is partly due to the coal strike and partly due to the availability and relative cheapness of natural gas. Panhandle Eastern Pipe Line Company receives



## Low Price Spur to Gas Expansion

**"T**HE natural gas industry has undergone a tremendous and continuing expansion since the end of World War II. Many complex and interrelated factors have been responsible for this expansion. Wartime restrictions on the use of coal and oil to domestic users made many people aware of the advantages of natural gas for house heating. Since the end of the war, coal and oil prices have advanced generally by 50 per cent or more while prices for natural gas have remained relatively stable."

slightly less than 19 cents per thousand cubic feet for natural gas that it delivers at wholesale to Michigan Consolidated Gas Company, the distributing company in Detroit. This wholesale rate of about 19 cents per thousand cubic feet would be thermally equivalent to No. 2 fuel oil selling at about 2.64 cents per gallon or No. 6 oil selling at 2.88 cents per gallon.

The lake port terminal price of No. 6 fuel oil in Detroit as of February 6, 1950, was 7.1 cents per gallon.

Michigan Consolidated Gas Company is also supplied by the recently constructed Michigan - Wisconsin pipeline, but this Michigan-Wisconsin gas comes to the Detroit city gate at a price of around 30 cents per thousand cubic feet, some 50 per cent more

than the rate charged by Panhandle Eastern.

**E**VEN if natural gas is brought into new areas at a wholesale price of around 30 cents per thousand cubic feet it will give stiff competition to the fuel oils. Natural gas at 30 cents per thousand cubic feet is equivalent to No. 6 fuel oil at about 4½ cents per gallon or \$1.89 per barrel. According to the *National Petroleum News*, the following prices were in effect February 6, 1950, for No. 6 fuel oil (f.o.b. refineries and tanker terminals) :

New York Harbor.....	\$2.05-\$2.15
Boston .....	\$2.10
Jacksonville .....	\$2.02
Norfolk .....	\$2.08
Savannah .....	\$2.03

It will be seen from the above that the present prices for fuel oil in New England and the South Atlantic states

## PUBLIC UTILITIES FORTNIGHTLY

are considerably higher than present prices charged for natural gas in other parts of the country. It is too early to predict the levels of wholesale and retail rates that will be charged for natural gas in these areas, but it seems probable that there will be some spread in prices favoring the use of natural gas as against oil for many heating and power purposes.

According to recent releases made by the Federal Power Commission and by the American Gas Association, gas industry expenditures for construction of new facilities and expansion of present facilities in 1949 reached an all-time high of some \$940,000,000. It is estimated that about \$1.8 billion will be spent by gas companies in the next three years. The completion of this tremendous natural gas expansion program cannot fail to have a very important effect upon oil markets. It seems clear to me that this situation, which is fundamentally due to the wide disparity between oil and gas prices, can only be resolved by a decline in oil prices, an increase in natural gas prices, or a combination of both of these types of adjustment. The timing and extent of such price adjustments should be left to the interplay of economic forces; that is, to normal business competition. The price required in one locality at one particular time will be quite different from what will be required in another locality at a different time. I personally think that the solution must be found through the normal play of free competition.

**T**HE only alternative means of settlement would be by governmental allocation of markets. Such allo-

cation would inevitably require governmental control over end uses and governmental decision not only as to how much gas or oil should be made available to particular regions, states, counties, and cities, but also to the various classes of users, segments of industry, and individual customers. The question arises, "Can the Federal government successfully carry out any such stupendous program?" The welfare of the whole economy is more likely to be promoted by continuing to permit interfuel competition than it would be by any attempt at over-all governmental regulation of the fuel industries.

Recently, Congressman Heselton of Massachusetts introduced House Resolution 466 calling for the formulation of a national fuel policy. A similar resolution was sponsored by Congressman Heselton in the 80th Congress. Earlier this year Representative Harris of Arkansas proposed the creation of an interdepartmental committee whose duty it would be to make a study for the purpose of recommending a national fuel policy. During recent years congressional committees have been giving consideration to various proposed amendments to the Natural Gas Act. These amendments have been directed toward limiting the jurisdiction of the Federal Power Commission with respect to the production and gathering of natural gas. Some of the amendments that have been proposed would exempt from FPC jurisdiction so-called independent producers who sell gas at arm's length to interstate pipelines, but, at the same time, would keep within the control of the commission the production and gathering func-

## PUBLIC UTILITIES FORTNIGHTLY

tions of the interstate pipelines that produce part or all of their own supply of gas.

If any such distinction is drawn and if the Federal Power Commission continues to evaluate the gas owned by regulated pipe-line companies on a cost basis, the long-term result will be a fairly complete divorcement between the functions of production and gathering on the one hand, and transportation on the other. Integrated pipelines would be compelled to make every effort to divest their holdings of gas reserves and production facilities.

New pipelines constructed would in all cases be nonintegrated transportation companies.

THE records of the Federal Power Commission will show that since the adoption by the commission of the original cost formula and its application to the valuation of pipe-line company reserves, there has not been constructed a single new interstate pipeline owning its own reserves. If there were to be a continuation of this policy of applying the original cost formula to pipe-line reserves, then I think that the interstate pipelines should be afforded an opportunity to sell off the gas reserves that they now own. In support of this conclusion we may refer to a very recent case, *Federal Power Commission v. Panhandle Eastern*

Pipe Line Co. (1949) 337 US 498, 81 PUR NS 161. The United States Supreme Court expressed itself in this language:

As we have held above that the transfer of undeveloped gas leases is an activity related to the production and gathering of natural gas and beyond the coverage of the act, the authority of the commission cannot reach the sales. A proposed transfer cannot be stopped by the commission. It should not be permitted to delay what it cannot prevent.

A great number of leading oil companies hold very substantial natural gas reserves. An estimate made for 1947 showed that thirty-three leading oil companies held some 116,000,000 acres of gas reserves or 62.5 per cent of the total acreage. In the case of many of these large oil companies, earnings from the sale of natural gas represent a substantial percentage of their total earnings. These companies will, of course, benefit from the further expansion of the natural gas industry either through continuing the sale of natural gas produced by them or through the sale of their natural gas properties in the event that they divest themselves of these properties.

I do not believe that the public interest should require oil companies to sell their gas production properties. Nor do I believe that the public interest should require integrated nat-



“THE growth in natural gas sales has been at the expense of manufactured gas, coal, and oil. Everybody, seemingly, has wanted to switch to natural gas. This is because natural gas is not only the most attractive fuel, but it is now generally the cheapest fuel in many areas for house heating and also for many commercial and industrial uses.”

## PUBLIC UTILITIES FORTNIGHTLY

ural gas companies to sell their gas holdings. From an operating standpoint, a pipeline holding substantial reserves of its own can be operated better and with more flexibility than another pipeline that purchases its entire gas supply from the outside. The pipeline owning reserves will be in a better bargaining position to purchase gas, the same as in the case of companies producing and purchasing other raw materials.

There is presented here both a jurisdictional and a rate-making problem. The independent producer of natural gas who has no interstate facilities or operations whatsoever feels that he is entitled to be exempt from the regulatory jurisdiction of the Federal Power Commission. The integrated, interstate natural gas company feels that it is entitled to at least a normal competitive field price for the gas produced from its own wells, even though today the competitive field price may be substantially greater than original cost of the gas to the present owner.

Basically, the production of natural gas is a mining operation and is comparable to the production of oil, coal, or copper. Risks are involved in the

exploration and development of natural gas and the investors who take these risks feel that they are entitled to a commensurate reward when they are successful.

If the Federal Power Commission and the Congress find a sound solution to this jurisdictional and rate-making question involving the value of natural gas produced in the field, this solution will go a long way to reduce the abnormal severity of present-day competition between gas and oil. This competition works both ways.

**I** BELIEVE that under fair competitive conditions natural gas and oil prices will come into balance in the field and in the various markets in the consuming states. This balance arrived at through normal competitive conditions will be much sounder and more to the public interest than any artificial "benefits" that might result from complete government control of the fuel markets.

The decision as to which fuel is necessary or appropriate to his use should be left to the consumer. Except in time of war or national emergency our American economy can still afford to respect "Consumers' Choice!"

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### Vatican versus State Socialism

**"T**HERE are even countries where there is erected a system, more or less absolute, that places all commerce in the hands of public authority. Let us affirm this clearly:

*"That is a tendency in opposition to the Christian conception of social economy. Commerce is, fundamentally, an activity of the individual and it is this private activity that gives him his first impulse and lights the flames of his enthusiasm."*

—POPE PIUS XII,  
*Addressing the World Congress of  
Chambers of Commerce, Vatican City,  
April 27, 1950.*





## Stronger Opposition to Utility Socialization

*Has the confusion of national and international postwar problems obscured the basic fact that public opinion in this country, as well as abroad, is turning right? Recent elections in Australia, New Zealand, Great Britain, and elsewhere seem to suggest the underlying reversal of the broad trend towards nationalization of industries which characterized the early postwar period. The author has taken some soundings of shifting sentiment on the specific question of utility socialization which should give all those interested in the subject reasons for pause.*

By ALFRED M. COOPER\*

**I**N the course of a recent conversation with a top executive in a large public utility corporation, I asked this official whether or not he expected to see his corporation operating under government ownership ten years hence.

With some hesitation, but with every evidence of sincerity, this executive replied, "It's quite possible." Then, he added, "the public ownership movement is too strong for us. It is a definite trend. All American industry may well be headed for state ownership. It is a question of time. Our company could be socialized within five years."

A few days later I talked with one of the district superintendents of this same power company, a lesser execu-

tive, but one in constantly close contact with every stratum among the citizens of his community. When I put this same question to him, his reply was emphatic. "Absolutely not. The people in my district are opposed to government ownership of electric utilities by at least three to one, and the situation in this respect is improving each month. If a majority of the electorate oppose socialization, why should the power industry be socialized?"

These somewhat conflicting views expressed by two company executives are being echoed in essence by spokesmen for other industries throughout America. Privately, some industrialists are gloomily conceding a world trend toward Socialism which could inevitably result in nationalization of all commerce and industry. On the

\*For personal note, see "Pages with the Editors."



## PUBLIC UTILITIES FORTNIGHTLY

other hand, when you contact other executives, or even the workmen in these same organizations and their labor leaders, you are surprised to discover a strong spirit of revulsion toward the credo of public ownership. This antipathy appears to have been actually strengthened during a period when propaganda for nationalization has been unrestrained.

SINCE the 1948 election there has been a tendency in many quarters to belittle the showing of public attitude surveys. Nevertheless, industrialists everywhere continue to place confidence in market analyses, and base promotional programs, involving the expenditure of millions of dollars, on the facts brought to light in such market studies. It is also true that the crux of any market analysis continues to be the house-to-house canvass conducted by trained interviewers who question housewives and home owners regarding their preferences and wishes as to products, packaging, and methods of distribution. All of which lends importance to a recent survey made of public attitude toward socialization of the power industry.

Having been connected with the first survey of public attitude ever conducted in a group of power companies (that carried out by J. David Houser & Associates for a former utility organization in the Chicago area) I am familiar with the methods employed by the pollsters of today, and have complete confidence in their efficacy. The seeming discrepancy in the forecasts of the 1948 election polls was not so much a matter of failure in accurate analysis as it was an instance of the inability of millions of good Ameri-

cans to make a positive choice between the personalities and platforms of the presidential candidates of that year.

Many utility executives will remember the first political poll ever taken in America by sampling methods. Before that we had only the old hit-or-miss mass straw vote method made famous (or infamous) by the now defunct *Literary Digest*. The sampling method was used in Chicago in 1926. It involved the question of municipal ownership of the local surface railway lines. The Chicago poll forecast the result a month ahead of the election date with an accuracy of better than 95 per cent.

BECAUSE of my confidence in the accuracy of properly conducted opinion polls I have been particularly interested in checking the results of the one recently announced by the Gallup organization. The poll to which I refer was designed to get the grass-roots opinion all over America on the question of public ownership of our various industries. The vote, as it applied to power companies, was in response to the simple question: *Do you think the United States government should own the electric power companies?* The consensus expressed was: "yes" 24 per cent, "no" 58 per cent, "undecided" 18 per cent.

An identical poll made by this organization on the same subject back in 1936 showed a response to this question of "yes" 40 per cent, "no" 52 per cent, "undecided" 8 per cent.

Making any reasonable allowance for conceivable errors in poll-taking technique, if the foregoing survey is in any degree indicative, it is difficult to understand why the executive of

## STRONGER OPPOSITION TO UTILITY SOCIALIZATION

any public utility corporation should "view with alarm" the ownership situation as it exists in 1950.

The survey I am quoting went further. It likewise propounded the above question to the interviewee as regards ownership of railroads and coal mines. Here are the poll results as applied to these vitally important segments of private enterprise:

	Railroads		
	Yes	No	Undecided
1936 .....	30%	60%	10%
1949 .....	22	60	18
	Coal Mines		
	Yes	No	Undecided
1936 .....	27	64	9
1949 .....	25	58	17

Again making generous allowance for error, where in these figures can the proponents of utility Socialism in America find the remotest cause for jubilation? And why should any utility executive feel discouraged after studying this sampling of public sentiment?

**H**OWEVER, the opinion poll to which I refer went even more deeply into this subject. It proved that most Americans dislike the idea of government ownership of industry while at the same time they continue to fear the eventual collapse of private enterprise in this country. Thus, to the question "During the next fifty years do you think the government in Washington will own any of the follow-

ing?" the response in each instance was as follows:

Railroads	
Yes .....	36%
No .....	44
No opinion .....	20
Banks	
Yes .....	28%
No .....	54
No opinion .....	18
Big Industries Like Automobiles, Steel, Et Cetera	
Yes .....	24%
No .....	58
No opinion .....	18

Thus, it becomes obvious that the little fellow, as well as the power company general manager earlier mentioned, fears encroaching Socialism even while he abhors it.

And yet, how can public ownership of anything occur in the United States except with the consent of the people, as expressed by their votes at the polls? No power company ever was taken over by a municipality except by majority vote of those who balloted in an ownership election. No American President or congressional majority ever has been elected on a platform endorsing socialization of industry. There is no reason to believe that this situation will change in the future; indeed, the survey we are considering indicates a genuine trend away from statism.

**I**NDUSTRIAL executives may, in instances, refuse to accept the evi-



**Q** "PRIVATELY, some industrialists are gloomily conceding a world trend toward Socialism which could inevitably result in nationalization of all commerce and industry. On the other hand, when you contact other executives, or even the workingmen in these same organizations and their labor leaders, you are surprised to discover a strong spirit of revulsion toward the credo of public ownership."

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dence of such surveys of public opinion as those just outlined. But one may be sure that politicians, who can be reelected only if they know what their constituents want, are certain to make themselves informed about this situation because it involves the convictions of the man on the street.

Not only in America, but in New Zealand, Australia, and Canada, socialistic candidates had a tough time of it in 1949, and experts appear agreed that the recent close elections in England may presage an early end of further socialistic control of industry in that tight little isle.

Why then do so many Americans detest encroaching socialization and at the same time fear that we are going to sink into it?

The answer to this question is important in an election year and it may not be difficult to arrive at. Putting it bluntly, we Americans have been exposed for nearly two decades to a well-organized campaign designed to destroy our faith in constitutional government and private enterprise. This propaganda has been expertly handled by a relatively small group of proponents of socialization.

Being aware of the power of constantly reiterated dogma, an increasing number of individual Americans have developed a canny distrust of all such propaganda. At the same time these citizens are often convinced that their compatriots are falling too readily for the "line" of the revolutionaries. They know what they want themselves, but they are not sure about the other fellow's good judgment.

**I**t is true that New Zealanders, Australians, Canadians, and Britishers

at one time all fell for the something-for-nothing panacea, but there is every reason to believe that these people already have had more than enough of this sort of thing. Back in 1936, as the early surveys indicate, Americans also were toying with the idea of statism. But if we can place even relative confidence in the results of the polls I have quoted, then it becomes evident that Americans are much less in favor of public ownership of any industry in 1950 than they were in 1936. And when you remember that this is the total reaction to at least fourteen years of organized and unrestricted propaganda favoring Socialism, it would appear that the revolutionary zealot, rather than the industrial leader, is the one to view the future with concern.

**I**N but one phase of his activities has the proponent of statism achieved any noticeable success. He has found it possible to create suspicion of motive between groups within America whose interests are truly identical. As one instance of this, he has persuaded certain workers that their employers are wholly selfish, and at the same time convinced individual employers that their employees are demanding more than their share of the profits of the business.

At the same time it is encouraging to note that such a politically active organization as the CIO has recently set about the job of putting its house in order. This situation should be of especial interest to electric utility executives, since the first Communist-dominated union to lose its CIO charter is made up of United Electrical Workers. (To be distinguished from



### Utility Growth Eases Taxpayers' Burden

**“THE** privately owned electric utilities . . . are continuing their pioneering campaign of selling democracy to their consumers. They point with justifiable pride to a program of \$8 billion to be spent in plant expansion of these utilities in 1950. They show how private enterprise not only can thus add billions to the nation's wealth without assessing the citizen a penny in additional taxes, but actually will pay increased taxes as a result of this expansion of physical properties.”

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the relatively right-wing CIO Utility Workers of America who are on record against public ownership of utilities.) This UEW housecleaning was long overdue and there is yet much to be done along this line. Nevertheless, this and similar repudiations of left wingers by responsible union officials must be considered a definite step in the right direction.

**S**UCH action on the part of labor officials certainly deserves recognition from the employer. Yet there still exist executives throughout industry who seem to lightly regard the Taft-Hartley Law as some sort of a punitive weapon aimed at industrial employees. If this were true this law would have been repealed long ago. It is difficult for some employers to realize that this labor relations legislation has earned the wholehearted approval of a majority of American

workingmen. Our lawmakers are fully aware of this situation and that is why they have consistently refused to repeal the Taft-Hartley Law. That is why the Senate committee recently refused even to allow a weakening of the general counsel's office in the National Labor Relations Board under a presidential plan for departmental reorganization.

There is yet another factor in the results of the opinion poll we are discussing that should be of particular interest to public utility executives. In comparison with railroads and coal mines, fewer citizens favored government ownership of the electric utilities than either the railways or the mines. And, in the matter of whether those interviewed *believed* that socialization was in the offing, more citizens considered the railroads and banks to be in danger of Federal confiscation than the “big industries,” in which group

the power industry certainly must be included.

This is significant in the light of the long-standing impression among bankers and even factory owners that the fight of the electric utility against socialization was of no particular interest to other industries. Some of these financiers and industrial executives long ago may have conceded that electric power and gas, like municipal water, sooner or later must come under government control. And some of these gentlemen may still be of the opinion that the utility battle is a sort of a private fight—of no concern to industry in general. Most utility executives have heard that familiar refrain at one time or another.

**W**ELL, if these surveys prove anything, it is that the electric power company occupies as solid a position as any other industry, when it comes to the possibility of government confiscation of its properties, and is in a relatively much better situation, in this respect, than the railroads, coal mines, and banks.

There appears no reason to believe that America will inevitably follow Great Britain through the morass of bureaucracy we call Socialism. However, it is important to note that the banks, coal mines, and railroads were among the first segments of private enterprise to be nationalized in England, and the British voter did not actively rebel against government by bureaucracy *until* an effort was made to socialize the other major industries.

The survey I have quoted should bring home to everyone whose future is tied in with private enterprise the fact that the fight against Socialism

is everybody's job. With the public, by 3 to 1, favoring continuation of our present system of doing business, there is no reason to believe that socialistic legislation must necessarily be a "pushover" in Congress. It is also true that the demand for tax reduction can effectively forestall further attempts at socialization in the form of Federal control of education and medicine. The main ingredient lacking in the present battle to survive seems to be confidence in the outcome—and without any real basis for such doubt!

It is also reasonable to believe that the fight of the electric utilities to escape socialization is no longer viewed with equanimity as just a private fight. Banks, railroads, coal mines, and all industry are now fully aware that the statist intended, from the first, to use the utilities only as an entering wedge. From now on, it will be much more difficult to sell totalitarianism to any segment of the American people, no matter how skilfully the package has been camouflaged.

**I**NCREASINGLY, perhaps somewhat unconsciously, the other big industries are following the lead of the utilities in using advertising space and radio time to tell the story of the advantages to the average citizen of the free enterprise way of life.

The privately owned electric utilities, meanwhile, are continuing their pioneering campaign of selling democracy to their consumers. They point with justifiable pride to a program of \$8 billion to be spent in plant expansion of these utilities in 1950. They show how private enterprise not only can thus add billions to the nation's wealth without assessing the



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citizen a penny in additional taxes, but actually will pay increased taxes as a result of this expansion of physical properties.

The power company, and any properly managed private business enterprise, has a most tempting bill of goods to offer a tax-weary public in 1950.

The surveys I have mentioned indicate clearly that the selling job is actually being done. The man on the street has spoken frankly in voicing his sentiments to the poll takers. The politicians have been back home listening to this ordinary citizen. And the industrialists who may have contemplated "making a deal" with Socialism are in a mood to reconsider the situation. All of which should add up to good news for private enterprise, as it squares away for the second half of the twentieth century.

**S**UMMING up, there would appear no real reason for a defeatist attitude on the inevitability of Socialism in the United States for the utilities or any other major industry. While some Jeremiahs in our midst wail over the refusal of American people to stop short and turn around on the primrose

path of statism, a good many of our hardheaded citizens are doing just that.

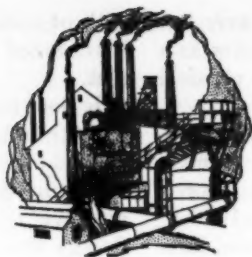
It does not follow that the American citizen has to travel all the way to the end of the road of disillusionment, before he decides that Socialism will not live up to its promises. Even though the citizens of Great Britain and other parts of the British Commonwealth had to learn the bitter truth "the hard way," our American neighbors deserve a better reputation for simple arithmetic and good judgment, as affecting their own pocket-books and liberties.

The moral of all this seems to point toward the business world redoubling efforts in the direction of *fortifying* the American citizen's now-changing attitude. The pendulum is already beginning to swing the other way. Industrialists who fail to see it, or sense the present opportunity for crystallizing public opinion, may well be the victims of their own timidity. The situation recalls a now famous remark by the late President Roosevelt, made in connection with an entirely different subject matter: "There is nothing to fear but fear itself."

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**"T**HE total capacity of the private power systems now is 45,000,000 kilowatts. The present government plans call for government plants generating 41,000,000 kilowatts. Practically all this will be done in the name of reclamation, navigation, and flood control. As little as possible will be said about power. And the word Socialism will never be used. But the drive is to socialize the power industry of America while at the same time progressively wrecking the private industry by legal and official persecution and official vilification, and by boasting of government financial successes in power operation, as in the case of TVA, which are absolutely false and have been so branded by the Comptroller General of the United States."

—EXCERPT from "The Road Ahead"  
by John T. Flynn.



## Fly Ash Disposal—How to Be Optimistic though Vexed!

*Utilities, long irked by small particle residues resulting from combustion of solid fuels, have a welcome solution for disposing of the accumulated and unwanted by-product. Fly ash, as such matter is popularly termed, can be put to work at a surprising number of worth-while jobs. The word "pozzolan" is introduced to the lexicon of engineering in connection with coal-consuming power plant operations. The word is picked up at an interesting locale where, in earlier centuries, fly ash prototype was put to man's purposes in support of an earlier civilization.*

By HOWARD J. CARSWELL\*

LET us paraphrase the journalistic axiom that when "man bites dog" it's news. When fly ash "bites" management it is not news, but when management *sells* that fly ash in big tonnages, that is news. Moreover, the time is here for the word "pozzolanic" cement to enter the lexicon of power plant engineering involving pulverized coal.

Obviously, it behooves the electric utility to be the good neighbor by minimizing its share of the urban nuisance of atmospheric pollution. The electric power and light industry has been foremost in adopting devices and techniques for collecting-out the powdery refuse to prevent its escaping up the stack as an air pollutant. But

when many tons of it pile up in a day, what beneficent use can be made of it?

If it can be given away, the cost of 50 to 75 cents a ton just to get it off of the premises can be saved. When, as, and if that powdery residue can be sold on a commercial by-product basis there are the costs of overhead, research, promotion, handling, and selling, so let's skip any "profit" angle to the disposal.

However, if a vexatious nuisance can be transformed into a socially useful thing it become worth while, and the costs of riddance are reduced. Therefore the record to date offers some encouragement. Some 2,300,000 tons are "produced" in a year, and this amount may be expected to grow.

There are utility men who incline to the view that research projects seek-

\*For personal note, see "Pages with the Editors."



## FLY ASH DISPOSAL—HOW TO BE OPTIMISTIC THOUGH VEXED!

ing commercial uses should be industry-supported, although some prominent companies have been pioneering on their own.

Cinders from stoker-fired furnaces are salable in most localities, so that is an old story. This new story is about fly ash.

**U**NION ELECTRIC COMPANY OF MISSOURI is giving its ashen dust away, and for a socially beneficial purpose. Much river bottomland of the St. Louis area can be upgraded for industrial sites, and Army Engineers are applying lots of fly ash for use in dykes to strengthen the river levee system. This is the cheapest way the company knows of for getting rid of it. The 400 tons daily now being collected will grow substantially when its expansion program is completed.

Union Electric Company has devised its own technique, which is to pump that ash powder in the form of a slurry which is typically 10 per cent ash in 90 per cent river water. By keeping the velocity at about 8 feet per second through an 8-inch pipe, the sedimentation is kept down. Of course, the pipe is purged periodically by clean water. Pumping the slurry into a rectangular pool of about 500 x 2,000 feet works well, according to the St. Louis utility's experience.

Commonwealth Edison Company of Chicago has a real story to tell! This eminent utility is committed to deliver, by commercial sale, 150,000 tons of fly ash over a 3-year period for use in the massive concrete structure of the government's Hungry Horse dam in Montana. It is mixed with portland cement in making 3,000,000 cubic yards of concrete in the dam's structure. The

ash moves away at \$1 per ton f.o.b. Chicago, and the delivered cost at Columbia Falls, Montana, is \$12 per ton. Compare that with \$25 per ton for portland cement at the dam site. The fly ash admixture improves the concrete for density, water tightness, and resistance to the effects of freezing and thawing, volume change, and crack resistance.

**C**OMMONWEALTH EDISON system consumes more than 9,000,000 tons of Illinois coal per year, trapping 150,000 tons of fly ash from its four metropolitan generating stations, and this figure will enlarge when the new Ridgeland station (with cyclone furnaces) comes into operation. It has supported pioneering researches to find commercial uses, and is now doing long-range promotional merchandising. The selling agent is Combustion By-Products Co., an experienced firm in concrete products and pipe whose director of research is Walter N. Handy. This utility acquired a patent of pertinence and has dedicated it to public use to exclude it from obstructing the commercialization of cementitious applications for fly ash.

The Commonwealth Edison Company experience is revealing. Two primary considerations inhere.

To be suitable for mixing with portland cement for concrete it is its experience that the electrostatic precipitator yields a fly ash having the ultra fine particle size which adapts best. The mechanical separator seldom produces such necessary fineness. The fly ash must be sufficiently clean of free carbon, which is a "dirt" impurity in concrete. The carbon content is one of the critical factors. The high vola-



### The Binding Value of Ash By-product

**"FLY** ash is one of several cementitious materials having similar properties which are referred to as 'pozzolan.' Their origins may be volcanic or sedimentary, burnt clay, or ash products. In themselves they are not binding agents, but in combination with cement they improve the strength of concrete and imbue it with other qualities. Thus, pozzolan includes the natural and the artificial."

tile Illinois coals are low-fusion and high in sulphur.

Secondly, a market outlet must be for great tonnages in carload lots to be of interest to Commonwealth Edison Company. Implicitly that big tonnage market should have proximity to Chicago so that freight and handling charges will not rule out commercial selling. Being powdery, it must be moved in bulk as is cement in closed cars, or it can be wetted down and shipped by the carload. If sacked, the cost would run \$4 to \$4.50 per ton.

This fly ash has been applied into Commonwealth Edison Company construction concreting, including the sturdy foundations required for a modern steam turbine support. It is especially worthy for substructure foundations, for water piping, break-water baffles, and such. The ultra fine particle ash serves a "ball-bearing" function in the minute interstices of concrete's structure. The concrete be-

comes more resistant to freezing and thawing, sulphate reaction, movement of water, and volume change.

**FLY** ash was used on Chicago subway construction as an admix on a small scale, as also on the elevated Wacker Drive extension in the downtown "loop." Railroads have used fly ash as an ingredient in roadbed stabilization.

Army Engineers have approved of its use in the Intrusion-Prepakt method of repairing old concrete structures and rock foundations. A tunnel project at Omaha is using fly ash in pumpcrete to obtain more pumpability. Some 300 tons have been used in a Kansas paving strip, and three state highway commissions are testing the artificial "pozzolanic" cement. The Wisconsin Highway Commission has finished a testing program on freezing and thawing concrete beams made of cement and cement-fly ash mixes.

## FLY ASH DISPOSAL—HOW TO BE OPTIMISTIC THOUGH VEXED!

They have completed their third field test project.

Obviously, the great potential market would be for portland cement manufacturers to include qualified fly ash in the product they manufacture and sell, so their susceptibility may be judged accordingly. Discussions to this end have been held. The ready-mixed concrete market using a cement-fly ash combination is potentially inviting.

Illinois coals leave a slag of low-fusion characteristics which emerges from the slag pit in the form of glass-like black particles. Its usefulness in concrete is not established, although it is believed to have qualities of fly ash which may be adaptable for concrete. Illinois coals leave a residue containing generally from 40 to 48 per cent of the basic essential, silica.

Detroit Edison Company has sold thousands of tons of its ashen waste as mineral filler in bitumastic (asphaltic) road paving, with results that are reportedly as good as from portland cement or powdered limestone. The 15 to 18 gallons applied per ton is reduced by two quarts to a gallon by introducing the fly ash filler.

**F**OUR promising commercial possibilities for fly ash were advanced by M. C. Randall, senior engineer of the Philadelphia Electric Company, who delivered a significant paper at the American Society of Mechanical Engineers symposium. They are (1) insulating cements; (2) building bricks; (3) soil stabilizing substances; and (4) core and molding "sands" in foundries where the fly ash could serve the same function, and possibly replace, silica flour.

Several years ago during the concluding stage of the Southwark plant at Philadelphia there was a shortage of asbestos shorts which threatened completion of the insulation work by the specified Mines Cement. There ensued an inspired and fruitful search for a substitute finishing cement. The successful improvisation consisted of fly ash, mineral wool, and other materials in such a way as to produce a cement having a near-zero shrinkage and an excellent adhesion to the base insulating materials. These characteristics also made possible a direct application without wire mesh reinforcing, and painting on the finishing cement useful as turbine insulation capable of withstanding up to 1,700° F.

Building bricks are a commercial prospect. A very good brick can be made by using fly ash and boiler slag, according to Mr. Randall. It compares well in quality and appearance with the standard shale brick, and can be processed like it. By proper burning, high-grade vitrified products can be produced. However, that deleterious carbon content should be under 12 per cent in the fly ash. The range of composition for good brick runs from a fly ash-slag ratio of 80/20 to 40/60.

As for soil stabilization prospects, road building would be the big one, although railway roadbed strengthening figures, as well as soil binders.

**O**THER possibilities have been explored, of course, but these are viewed dimly from the standpoint of commercialization, and for differing reasons. One is the use of fly ash in filters as a replacement of Fuller's earth. Substituting for pumice as an abrasive, replacement of calcium car-

bonate in paints, and substituting for sand in fertilizer are mentioned. Usage for sand blasting, gravity water filters, and in putty and caulking materials are others.

It is trite to say that Nature created bituminous coal to be a complex, enigmatic substance which geologists classify as a sedimentary "rock" partly because it has no fixed chemical formula and varies in its chemical make-up. No two coal beds are exactly alike, and different parts of the same seam will vary. Coal's noncombustible component of ash is likewise variable as to types, qualities, and fields of origin.

Fly ash derived from the burning of pulverized bituminous coal may be defined as "that portion of the solid residue which is normally carried in the gas stream of the steam generator to the stack." But even when specifically defined, the fly ash may be as variable as are the mother coals. Technical qualifications for different commercial uses are to be considered. Therefore the residual ash from burning Illinois coals, for example, is not necessarily comparable, on a technical basis, with the coals from the Appalachian or other fields.

The Philadelphia material, as reported by Mr. Randall, is generally typical of much of the material available in this country for such uses as insulating cements, brick, soil stabilizing compounds, and foundry "sands." They are of three phases.

First is a white ash of ultra fine particle size. Another is a reddish material presumably high in iron, which is also of fine particle size. The third is black and contains residual carbon, or repre-

sents ash particles coated with carbon. These components are usually found in about equal proportions.

Now comes that word "pozzolan" as to cementitious uses of fly ash. It is named for a town in Italy where the Romans of antiquity got volcanic ash for cementing in their magnificent buildings and aqueducts which, centuries later today, are so admired.<sup>1</sup>

**F**LY ash is one of several cementitious materials having similar properties which are referred to as "pozzolan." Their origins may be volcanic or sedimentary, burnt clay, or ash products. In themselves they are not binding agents, but in combination with cement they improve the strength of concrete and imbue it with other qualities. Thus, pozzolan includes the natural and the artificial.

It has happened before that an industrial waste and nuisance has been converted into a commercial by-product having social usefulness. Let us see what the future holds for fly ash commercialization in big tonnages. That's the reason for this article's titular advice, "How to Be Optimistic though Vexed!"

<sup>1</sup> Fly ash desirable for a pozzolanic cement has the following chemical breakdown and physical properties, according to the experience of the Commonwealth Edison Company:

Silicon dioxide ( $\text{SiO}_2$ ) not less than 40%  
Aluminum oxide ( $\text{Al}_2\text{O}_3$ ) not less than 15%  
Magnesium oxide ( $\text{MgO}$ ) not more than 3%  
Sulphur trioxide ( $\text{SO}_3$ ) not more than 3%  
Loss on ignition, not more than 10%  
Retained on #325 Sieve, not more than 12%  
Specific surface (Blaine) not less than 3,000  $\text{cm}^2/\text{gm}$

Compressive strength—2" cubes of 75 per cent portland and 25 per cent fly ash by absolute volume when moist cured at 70° F. for twenty-eight days, shall have 85 per cent or more of the strength of like cubes containing 100 per cent portland cement.



## Is Free Trouble Shooting an Opportunity?

*The author of this article had some trouble with his gas stove. The troubles had to come during the preparation of a Thanksgiving Day dinner with a house full of guests. What happened to his complaint and request for emergency service and what is happening daily to thousands of other similar requests give us a down-to-earth picture of public service performance at its best.*

By JAMES H. COLLINS\*

**T**HANKSGIVING DAY. Turkey in the oven. Relatives have arrived. Dinner two hours away. Everything running smoothly, even for the gas company.

Suddenly the gas range springs a leak, there is a valve fire, the men folks decide that the best thing to do is shut off the meter—and immediately the gas company has some problems under the heading "Customer Service."

Shall the company do anything beyond advising that a plumber be called?

If it does anything, shall it be done free?

Or for a service charge—and how much?

If the trouble is shot gratis, where

shall the line be drawn between problems that are the gas company's, or due to the customer's defective appliances, or to the appliance manufacturer's faults in design or production?

While the turkey waits, a whole complex of questions arises, with which gas companies have been struggling since the first appliances appeared, along with electrical competition. There are no standard answers, never will be. Customer service is something each company has to deal with in its own way, according to location, competition, rates, and whatnot.

This service has been called a problem child, a brat that many a gas executive would like to leave on a doorstep. It has also been regarded as an opportunity to build good will, and even to sell gas.

\*For personal note, see "Pages with the Editors."

## PUBLIC UTILITIES FORTNIGHTLY

**M**ANY years ago, even in the days of the Welsbach mantle, this brat was left on the doorstep of the Los Angeles gas company of its day. It was taken in, washed, fed, reared, and became a beautiful child. The Southern California Gas Company of today is proud of its customer service, would willingly enter it in any baby show, believes that it has gone maybe furthest in something called "quality control."

This boils down to rendering as much customer service as possible, with a carefully planned smile, and afterwards calling in the statistician to run his cold fishy eye over results and say how they're doing.

Or as C. A. Renz, executive charged with this service, puts it, "Looking at our mistakes through the customer's eyes."

Before that turkey has had time to get cool in the oven, the men folks figure that, now the gas is off, it must be up to the gas company to get it going again. So they telephone in to the company. None of the family has ever heard that there is such a service, because, for reasons, it is not advertised.

The family would be willing to call a plumber if the switchboard operator advised that. If so, that brings up the problem of "Which plumber?" She has been provided with an answer to that. "Look in the yellow telephone book."

If the company shoots the trouble this family would be glad to pay a service charge.

What happened was that, calling the gas company, the switchboard operator—regularly trained to deal with all sorts of problems—found that the

trouble was an emergency. If it had been something like a balky oven door, that could have been taken care of later. Within a half-hour a customer serviceman showed up, stopped the leak, turned on the meter, relit all the pilots, said there was nothing to pay.

A folksy fellow.

"Think of this happening on Thanksgiving, of all days!" he chuckled. "If you have any more trouble just call in, and we'll be glad to take care of you."

**P**LEASANT manners are one of the top requirements in landing these jobs. And just as too much IQ is likely to hamper a salesman, it appears that too much education carries the hazard of making the customer serviceman feel that this work is a shade beneath him.

This gas company has about 700 servicemen, covering around 700,000 meters in the city, each with his truck.

Customer service has been a "must" beyond the memory of anybody in the company, for there has always been electrical competition, from the alert city-owned power department, and the Edison Company. In an area like San Francisco, where one company supplies both services, that might not be so. But in and around Los Angeles it is good business to shoulder the widest possible range of customer difficulties, pleasantly, keeping costs down—and do it with "quality control," which means bringing in the statistician to learn a lot of things important to management.

Samples of customers are selected and checked for various purposes, by calls and by mail, after their troubles have been taken care of.



## IS FREE TROUBLE SHOOTING AN OPPORTUNITY?

How well is the individual serviceman doing his work? He may be a beginner, or a veteran; may need further training, or be in line for promotion.

What cooks in appliances? It is reported that more than 5,000 different types and kinds and makes of gas equipment are now on the market. What shortcomings show up most? Whose fault—manufacturer or the dealer who installed?

What about the company's customer service policies? It is easy to lay down a rule about what the company will do, and cannot afford to do—but it is not easy to say how good or bad that rule may be, unless customers are sampled and quizzed.

**Q**UALITY control gets down in a region below routine customer complaints, where problems not reported to the company are creating ill feeling, and makes it possible to do something about them.

Here is Bill Jones, newly trained serviceman, who is sent out with a truck, and appears to be a first-rate man, taking care of more customers than the average. After a time, some of his customers are sampled by field inspectors who call personally and report on a cleverly framed blank; it gets the essential points without too much quizzing or paper work.

Two curves result. Bill Jones' production in work units is high—splen-

did. But his mechanical errors are high as well. He is an eager beaver, has tried to work too fast at the start, is taken back to training school and shown how to do better work, becomes a fine operator as well as a fast one. Or a foreman may ride around with him for a day or two and give him all the instruction needed. Today Jones is a foreman himself.

Older men are sampled to discover shortcomings, improve their mechanical work, their manners, measure them for promotion.

**I**NEVITABLY, some promising trainees do not fulfill expectations, and have to be dropped, though the percentage is kept down by thorough hiring tests, and by observation during training. It often happens that an unfavorable report given in a sampling of the misfit's work comes just as he quits—he has discovered that this is not his kind of job.

The personnel angle of quality control is in line with present-day trends in management. Men should no longer be criticized, discharged, or promoted on supervisors' opinions, but on facts. Supervisors simply cannot get facts as broadly as the sampling of work.

Where the trouble lies in appliances, this sampling discloses facts that affect training, and servicemen's working methods, and the appliance manufacturer and dealer.



**Q**“CUSTOMER service is something each company has to deal with in its own way, according to location, competition, rates, and whatnot. This service has been called a problem child, a brat that many a gas executive would like to leave on a doorstep. It has also been regarded as an opportunity to build good will, and even to sell gas.”



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**T**OP of the list of customer complaints is the gas range. It is most often used, for so many different purposes, gets old, gets cranky, is allowed to get dirty.

Sampling of range troubles most frequently met shows that top burners and pilot lights run highest (41 per cent), ovens and broilers come next (17 per cent), and hardware, valves, balky drawers stand third (6 per cent), with the rest made up of this and that.

Before these troubles were thoroughly sampled, the company had laid down a rule, based on the belief that pilot lights were getting too much attention. The sampling proved that they were not getting enough attention, customers reported that they were still having trouble, and so the rule was broadened, to permit checking and cleaning of all pilots, whether or not a cause of complaint.

For the manufacturer, sampling statistics have shown that certain makes and models have shortcomings of design, and these are reported. The gas company is able to do a lot of close-up field testing on appliances that manufacturers cannot afford to do. These faults in design are reported to appliance makers, and appreciated.

For the appliance dealer, who makes the installations of new equipment, and wants to have his customers satisfied, quality control reports disclose faults in installation. The gas company keeps school for installation mechanics, plumbers, dealers themselves. Customer service keeps people satisfied with their appliances, and sells gas, and the appliance dealer is vitally important in that picture.

Sampling develops accurate cost

figures, and makes possible cost control, by indicating that too much is being done for the customer in certain problems, and furnishing the foundations for a reasonable service charge.

Costs are made up of labor, about 80 per cent, and mileage and materials. At present, customers are serviced in less than half an hour, on the average, including travel time.

**S**ERVICE calls are of two kinds. Turn-offs, turn-ons, meter changes, complaints about bills requiring meter work, gas leaks, and so on, are uncontrollable costs.

But calls for appliance adjustments, such as repairing a valve or sweetening up a range oven drawer, are controllable to a considerable extent, in that the company can decide to reduce certain services if costs run too high.

During the war and postwar period of rising costs everywhere, it has been possible to give maximum free service, and still keep costs down. Very often, instead of reducing the free service to the customer, it has been possible to lower costs by improved training of servicemen.

Newer and more complex types of appliances and gas service are constantly coming into this field.

One of the latest is air conditioning. It was found that it took a good deal of servicing, at costs that were too high. Sampling studies disclosed the types of service that were most often needed, what were outside the range of free service, and led to a charge service contract that customers found reasonable and conducive to good maintenance.

Other quality control studies have disclosed opportunities for reducing



### Facts Controlling Personnel Relations

**“T**HE personnel angle of quality control is in line with present-day trends in management. Men should no longer be criticized, discharged, or promoted on supervisors' opinions, but on facts. Supervisors simply cannot get facts as broadly as the sampling of work.”

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costs that made it possible to continue free service. Example — customer service frequently involved call-backs to fetch a repair part that was needed; these parts were stocked on all trucks, eliminating call-backs.

It was found that many minor service jobs did not warrant sampling calls by field inspectors, and for these mail sampling has been developed. Letters are mailed within five days. At the start it was predicted that not more than 30 per cent of them would be answered. Surprisingly, the average was 68 per cent, with high income customers most responsive (86 per cent), middle high 73 per cent, middle low 68 per cent, low incomes 62 per cent. Incomes were determined by neighborhoods and rents. Mail sampling brings as high a percentage of information as personal calls, costs less than 25 per cent as much.

All negative replies by mail, customers not satisfied, are followed up by inspectors' calls.

**C**ALL-BACKS on one large sample of nearly 4,000 customers showed that 93 per cent were completely satisfied with the work done, and generally pleased by the personality of the serviceman. The 7 per cent of customers who were not satisfied were then studied to disclose reasons in types of appliance, kinds of trouble, and changes in policy or work routine.

A large number of complaints arise from new appliances. The housewife who has lately bought a new range, and begun paying instalments, is apt to be critical, expect nothing less than perfection. The manufacturer is remote to her, even though in the city, and the gas company is nearer than the dealer who sold it to her. So she calls the gas company, whose serviceman may discover a defective part, a mislocated pilot, an ignition port improperly drilled. These shortcomings are reported to the manufacturer.

Training of servicemen begins with several weeks in the classroom, fol-

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lowed by a period in the field working under a supervisor. This for the newly hired. There are lectures, demonstrations, and work on appliances by the students. The water-heater classroom, for instance, is equipped with 15 connected heaters of the commonest makes and models, plus 32 manipulation boards, 86 cutaway controls, and there are similar teaching installations for meters, ranges, refrigerators, space heaters. The student also works on practice orders and forms.

When his class work is satisfactory, he is released to a field supervisor for several days on a truck, and then to a hiring inspector who puts him on his own. But he is still limited to a simple range of work, subject to being called into training again to make good shortcomings disclosed by sampling.

After a new man has established a record for good work, he may be recommended for advanced training, which takes several weeks, and qualifies him for what may come in customer service.

There are also district meetings at which men are posted on new appliances and problems, and dealer installers, plumbers, and others are given training either at the company school, or in classes to which an instructor is sent, held on a dealer's premises.

**D**RAWING the line between the different types of service that are rendered free, and those for which a charge is made is a delicate matter. Also, drawing the line between what the company can do, and what lies in the field of the outside repair agencies. It is a fluctuating line, and involves safety factors, and the standard procedures make up a thick book of rules,

carried and studied by servicemen.

On gas ranges, for example, the serviceman is permitted to make complete inspections of burners, controls, vents, doors, and the like, and to such cleaning as is necessary to restore service. But parts like thermostats and clocks lie outside his province, likewise cleaning where neglect has created a job for a plumber. He is limited to the simplest adjusting, must not touch electrical installations, must be a diligent reader of manufacturers' tags on appliances.

In fact, he has to make pretty close "Do" and "Don't" decisions, including situations that involve a gas danger, where it may be necessary to cut off service pending the arrival of a private repairman.

**F**OR obvious reasons he will not mention plumbers or repair people by name, but refers customers to the yellow telephone book. All kinds of trouble-shooting specialists advertise there, and these private concerns like the gas company service provided it does not step over the line, because it takes care of thousands of small non-paying jobs every day.

"My gosh! I ran myself ragged on 50-cent repair calls when I first came out here," says a newly established plumber, "until somebody told me the gas company did them free! We had nothing like that back where I came from."

For various reasons, this customer service is not advertised, the principal one being that no good way has been found to do it without stimulating too many calls. In the telephone book the company lists "Night and Day Call Customers Gas Serv." That and

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word-of-mouth advertising have thus far been sufficient.

**C**ALLS fluctuate widely through the year, ranging from about 3,000 to 12,000 daily. Peaks and valleys are caused by weather, seasons, the activities of people moving about, going back to school, the higher gas consumption in winter, their going away in summer. There is a school opening rise in September, followed by an October lull, then another increase in November, when space heaters are being turned on, and so forth.

These peaks and valleys set up an employment problem, as the service

must be adequately manned for the peaks, and kept busy in the valleys. This is taken care of by new hirings in advance of busy seasons, by shifting some of the service force to other work when calls drop, and by the normal severances, quits, and promotions.

Whether the utility company is lucky, if it has never found free service necessary, or is missing an opportunity, Mr. Renz does not undertake to say.

"But I believe it is certainly missing an opportunity unless such service is rendered with quality control," he says. "That is as necessary for the small as well as the largest utility."

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### The Skunk in the Woodpile

**"T**HE government is crying for money to meet its countless commitments, as well as maintain the normal functions of governing.

*"To hold down the growing deficit between income and outgo, it follows a penny-wise, pound-foolish policy. . . .*

*"... it needlessly wastes billions on such schemes as public power developments which would otherwise be carried on by highly taxed private enterprise. Thus it destroys or prevents the building of much needed tax-paying industry. . . .*

*"Every day it becomes more apparent that there is a well-designed Federal plan being promoted in Congress to socialize the electric power industry of the U. S. This is done under devious guises but the end result is always the same—tax-exempt government monopoly, centralized political control of local resources, and loss of home rule and taxation and regulation of electric power.*

*"When is Washington government going to quit shouting benevolence and Utopia via the socialization route and settle down to the less spectacular chore of maintaining the essential functions of government? Why must any American enterprise be sacrificed by the piecemeal adoption of the British socialization-of-industry program?*

*"Unless the people reject the encroachment of the Federal government in local affairs, state governments will soon be mere collection agencies to dig up taxes to support a gigantic Federal bureaucracy within their borders.*

*"The raids on the public treasury begin to smell."*

—EXCERPT from the Williamstown  
(Pennsylvania) Times.



# Washington and the Utilities

## *White House Program Challenged*

**A**Doption by Congress of what President Truman calls his "fair deal" program would "commit us irrevocably to a socialistic state from which there can be no retreat," according to Senator Harry Flood Byrd (Democrat, Virginia), consistent critic of the administration's deficit spending policies.

In a recent address before the Southeastern Electric Exchange at near-by White Sulphur Springs, the Virginia solon challenged President Truman to show he is against Socialism.

Senator Byrd declared that instead of indulging in "invective speech" the President should answer the following questions:

If he says he is against Socialism, why is he advocating the pressuring of Congress to adopt socialized medicine?

If he is against Socialism, why is he advocating the Brannan plan, which inevitably means socialized agriculture?

If the President is opposed to Socialism, why is he advocating another extension of socialized housing?

If the President is opposed to Socialism, why is he constantly advocating an extension of the number of those who receive government benefits?

Supporting Senator Byrd's views was Carroll B. Huntress, of New York, chairman of the National St. Lawrence Project Conference, who said that the public power movement is spearheading the trend toward general socialization of industry.

"The American people," said Mr. Huntress, "if asked to adopt Socialism

frankly recognized as such would unequivocally reject the proposition."

## *Kerr Bill Reverberations*

**P**RESIDENT Truman's veto of the Kerr Bill to exempt independent natural gas producers from Federal Power Commission regulation exploded into the faces of pros and antis alike. It would be no exaggeration to say the latter were as pleasantly surprised as the former were chagrined. Well-rooted "grapevine" talk of a "gentlemen's agreement" that the President would sign the measure had encouraged Senator Kerr and his supporters, at the same time discouraging those who had blasted the bill as a "steal" by the natural gas interests. Seemingly, the President changed his mind in view of tremendous pressure from the North.

The President's action seals the fate of other gas legislation pending in Congress. A bill by Senator John W. Bricker (Republican, Ohio) to limit FPC control at the distribution end of interstate pipelines (S 1831) will die in the Interstate Commerce Committee. It probably could pass Senate and House, but a White House "No" would not be overridden. Another measure, by Representative Robert Crosser (Democrat, Ohio), to give the FPC jurisdiction over natural gas securities (HR 5306) will no doubt remain in the committee—not because of possible presidential disapproval, but because gas state solons have sufficient behind-scenes strength to prevent its emergence. They do not want further Federal controls of any segment of the industry. An embryonic measure by Chairman Edwin C. Johnson (Democrat, Colorado) of the Senate Interstate Commerce



## WASHINGTON AND THE UTILITIES

Committee for the transformation of pipe-line companies into common carriers may never be written.

ALTHOUGH Speaker Rayburn, Senator Kerr, and other gas state representatives have publicly declared they plan no "retaliation" against the President, a bitterness has been engendered. Human nature being what it is, the President's action has definitely impaired his legislative program for the remainder of the present session. The unofficial impression is distinct that the administration can look for little coöperation from here on out—especially from the southwestern segment of Congress. Not a few observers feel the situation created indicates that Congress may do little more than pass necessary appropriations, a tax bill, and a few noncontroversial items.

The lack of unity among Democratic Congressmen may also show up adversely to administration proposals for public power projects. Legislators, such as Senator Kerr, who have supported public power measures in expectation of reciprocal favors for natural gas legislation, may no longer be counted as zealous allies of all public power proposals. Thus, the President's forthcoming reorganization plan to have the Department of Interior absorb the civil functions of the Army Engineers is probably headed for a flat congressional rejection. It could also mean that the Rural Electrification Administration's "super co-op" loan policy may be roughly handled by the Senate Appropriations Committee.

The glare from the President's Kerr Bill bombshell also may shed light on another subject, bringing into acute focus the steady advance of Federal encroachment in all fields of utility regulation. The explosion made it clear that the administration makes little or no distinction between the gas and electric industries. Heretofore, some gas interests have proceeded on the premise that special legislative relief from Federal interference could be obtained in Congress. The premise is now a dangerous one. There is little doubt that gas and electric interests must close ranks, and present a united

front to those in government who would nationalize those industries based on water and petroleum.

### *Interior Backs St. Lawrence Project*

THE Interior Department has put in a plug for the administration's St. Lawrence seaway and power program. Appearing before a House Judiciary subcommittee investigating alleged monopoly in the steel industry, Secretary Oscar L. Chapman said the department will urge authorization of and appropriation for the St. Lawrence project. He said this was because large quantities of low-cost power will be needed to process taconite and other low-grade ores of the Great Lakes region. He added that cheap transportation of Labrador ores to established steel plants in the lower Great Lakes area was a factor in the department's position.

### *Press Hears Industry on Federal Power Program*

LEADERS of the National Association of Electric Companies recently explained to more than 200 Washington editors and correspondents why the electric power industry regards the Federal government's power program as "contrary to the public interest." (See, also, "What Others Think" department, page 639.)

By means of a colored overlay map, Mr. Corette graphically revealed how the Department of Interior proposes to spend \$2 billion for the building of new generating and transmission facilities in the Rocky mountain area where 99 per cent of the population already is served with electricity. Many—or all—of the proposed Federal transmission lines would duplicate existing systems, he said. Another salient feature in his remarks was the disclosure of the Bureau of Reclamation's rapid conversion to a power undertaking, rather than an irrigation effort as planned in the original Reclamation Act. From 1902 to 1923, Mr. Corette said,

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Reclamation installed 2.5 kilowatts of generating capacity for each 100 acres of land irrigated; from 1933 to 1948, the ratio jumped to 144 kilowatts capacity per 100 acres of irrigation. And, he concluded, the 1948 to 1955 ratio will move up to 216 kilowatts capacity to 100 acres of irrigation.

**T**HERE can be no real gains for New England in a Federal hydroelectric program, Mr. Cree told his listeners. Pointing out that you cannot get "something for nothing," the Vermont executive declared the inundation of valuable farm lands, railways, towns, and industrial operations for hydro developments would far outweigh any possible savings to be had from so-called "cheap" Federal power. He disputed government claims that New England had over 3,000,000 kilowatts of undeveloped hydro power. A careful study by the New England Council, which gave consideration to the factors of flooding out valuable properties, revealed only 420,000 kilowatts of undeveloped hydro power, he said.

The Bureau of Reclamation's proposal to build a commercial power system in California's Central valley area, despite continuing offers of the Pacific Gas and Electric Company to serve all existing and future needs in the same territory, drew the fire of Mr. Gerdes. He declared the territory already is completely served by PG&E, adding that the government has no customers unless they be taken away from the company.

After detailing the company's purchases of power from the government's Shasta dam, Mr. Gerdes said: "Despite the obvious advantages of the present arrangement, the Bureau of Reclamation has attempted to set up a competing power system. It has sought appropriations for a wholly unnecessary steam plant; for unnecessary and duplicating substations, transmission and distribution lines." The cost of the unnecessary system would be over \$80,000,000, with annual operating costs in excess of \$5,000,000, he said.

Mr. Dierdorff dealt with the problem

of Federal encroachment on private enterprise in the Pacific Northwest. He said that no thoughtful citizen of the area wants the Federal power program to grow into a political and economic dictatorship. Because of the government's special immunities and privileges, no private company can compete with it in the development of the nation's greatest hydro-electric stream (Columbia river), he said.

"Our problem in the Northwest," Mr. Dierdorff continued, "is one which can be solved only if all of us who live there, and share the responsibility of providing electric service in the region, work together in a spirit of coöperation to get an answer that is fair to everybody." He noted that despite widespread public power systems in Washington and Oregon, two-thirds of the electric consumers in those states are served by private companies.

**S**UBTERFUGE and deception on the part of public power advocates was pointed out by Mr. Sutton. Taking the Santee-Cooper project of South Carolina as a "perfect example" of how government has moved in on private enterprise, he said the project was ostensibly designed for reclamation, navigation, flood-control, and other conservation projects. But in a court case, brought in connection with the South Carolina Public Service Authority's effort to buy a utility property in Columbia, a different motive was revealed, he said.

Mr. Wilkes, final speaker at the session, described the recent Southwestern Power Administration-REA alliance as an "infamous and illegal" deal, whereby the Department of Interior, and other members of the "public power trust," feel they have the "complete nationalization of the electric utility within their grasp."

Pointing out that the SWPA-REA "super co-op" deals would not take a single kilowatt hour of electricity to a single farm home, Mr. Wilkes said the transactions violated both the letter and spirit of the Rural Electrification Act and the Flood Control Act of 1944.



# Exchange Calls And Gossip



## *Phone Loans to Coöperatives*

THE Rural Electrification Administration has approved the first rural telephone loan to a coöperative. The Emery County Farmers Union Telephone Coöperative of Orangeville, Utah, will use the \$222,000 loan to install four new central offices (dial system) and build 177 miles of pole line. The Bell system, which now serves six communities in the area, with one instrument in each community, was reported to have consented to the new co-op arrangement. Under the prevailing law, existing companies serving an area have a 1-year priority for loans.

Capital will consist of the REA loan, membership fees of \$30 per subscriber, and special capital contributions from coal mines in the area to offset excess construction costs for private line service to these industrial subscribers. Of the total of about 1,200 establishments in the service area, the local organizing committee anticipates that about 1,000 will ultimately request service. Of these, 400 already have joined the coöperative. Four hundred more are expected to have become members by the time the facilities are ready for use.

Another REA telephone loan to a coöperative group in Iowa Falls, Iowa, also has been approved. This company, the Iowa Falls Rural Telephone Company, is made up of ten small mutual companies, each with about thirty subscribers. The loan of \$93,000 will be used to acquire a new dial system and to rehabilitate 135 miles of line. Present facilities consist of one wire-grounded circuit with switching arrangements being made available by the Northwestern Bell Telephone Company. Twenty-seven new

miles of lines will be constructed as well as 8.6 miles of cable to serve new subscribers.

The capital of the Iowa Falls Company will consist of the REA loan, \$10 membership fee, and \$25 capital by subscribers' capital contribution, for which credit will be issued. Five hundred subscribers are expected to be ultimately served.

## *Stations Have "Duty" to Give Both Views*

THE Federal Communications Commission decreed last month that radio stations which broadcast their own opinions on controversial issues have a "duty" to seek out and present the opposing views.

The statement was made in a criticism of editorial broadcasts of Station WLIB, New York. The language was much more direct than the FCC used in a policy statement last year. At that time, it said stations must "encourage and implement the broadcast of all sides of controversial public issues over their facilities, over and beyond their obligations to make available on demand opportunities for the expression of opposing views."

Last year's statement said that stations should play "a conscious and positive rôle in bringing about balanced presentation of the opposition viewpoints." The more recent statement spelled it out stronger. It said that a station "has an affirmative duty to seek out, aid, and encourage the broadcast of opposing views on controversial questions of public importance."

Criticism of WLIB, owned by New Broadcasting Company, Inc., arose from a 3-day series of broadcasts in January

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supporting the proposed national Fair Employment Practice Committee. FCC has asked WLIB to advise the commission about its "future policies" on editorial broadcasts.

### *Court Rejects Company's Appeal*

THE West Virginia Supreme Court, in a 4-to-1 decision, has rejected the appeal of the Chesapeake & Potomac Telephone Company for higher rates. A state commission order limited a requested increase to about \$1,000,000 in annual revenues. Judge Fred L. Fox said he would have granted the appeal on the questions of a proper rate base and the separation of interstate and intrastate business.

The court's decision thus ended the company's request for a \$4,010,000 boost in rates.

### *AT&T Holds Meeting*

MORE than 100 of the 950 stockholders who attended the almost 7-hour meeting of the American Telephone and Telegraph Company in New York city on April 19th are reported to have participated in heated exchanges of opinion. It was the longest meeting of the 65 that have been held by the company and it was the most heavily attended.

Answering one of the 105 questions raised at the meeting, Leroy A. Wilson, president of AT&T, said that as to the Western Union Telegraph Company taking over AT&T's TWX (cable) facilities, AT&T offered Western Union that chance in 1931 and the latter turned it down. Since then, he added, there has been no specific proposal on the issue.

Mr. Wilson, who has been head of AT&T since February 18, 1948, also disclosed that by the fall of this year, television facilities would be extended to Omaha, Des Moines, Minneapolis, and Kansas City. He also remarked that by the end of 1951, the West coast would be linked in with Omaha, and that the company would not be advertising on television this year.

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Some levity attended the suggestion that the company increase its \$9 annual dividend to \$12 a year. On second thought, the stockholder recast his suggestion, recommending that the annual dividend be \$18 a year. He made the further assertion that the company should stop issuing convertible debentures. To this Mr. Wilson replied that he could not follow the logic of the stockholder's remark because, followed to its conclusion, it would mean a 90 per cent debt ratio, adding: "If we had entered the postwar period with the present proportion of debt (about 50 per cent), we could not have given the service as we have given it."

The debt at the postwar period was about 30 per cent, he said.

IN his prepared remarks, Mr. Wilson said that steep rises in wages and cost of materials have affected the company in two ways: First, the cost of construction per telephone has risen so that the new plant is a lot more expensive than those of years ago. These new facilities represent nearly half of the Bell system's total plant investment. Second, the higher wages and material costs have increased day-to-day expense of rendering telephone service.

"Thus," he said, "we have had to meet the problem of earning a return on a much more costly plant at the very time when expenses were going up faster than income. More than \$3.5 billion of new capital was obtained since the end of the war. As a result the proportion of debt in the system's total capital has gone up from less than one-third to slightly more than one-half." Wages, he said, have gone up nearly twice as much as rates in the past decade.

"On taxes," Mr. Wilson said, "the average telephone's tax load is over \$2 a month. I know of no other service of like necessity that bears a comparable burden."

Labor discussions consumed a good part of the afternoon session, with representatives of several locals, and legal counsel for them, expressing sharply divergent opinions with stockholders.

## EXCHANGE CALLS AND GOSSIP

Mr. Wilson said further wage increases would immediately call for additional rate increases beyond those authorized and pending.

### *NAB Holds Convention*

OPERATORS of frequency modulation (FM) radio stations last month delved into possible cures for the financial woes threatening that form of broadcasting. In a panel session at the convention of the National Association of Broadcasters held in Chicago, they listened hopefully to reports on results of specialized operations by FM stations. They also heard reports that the number of FM stations on the air had declined since the first of the year, that scores of permits for stations had been turned back, and that there still were only about 5,000,000 sets in use equipped to receive FM.

Herman W. Steinkraus, president of the Chamber of Commerce of the United States, told the convention that although the United States has more radios than the rest of the world combined, its people are misinformed on many vital questions. "For one thing," Mr. Steinkraus said, "they are grossly misinformed relative to the distribution of the national income. The majority believe that 2 per cent of the people get 80 per cent of the wealth. The truth is that 88 per cent of the national income is paid to people who earn \$5,000 a year or less."

A recent poll disclosed, he said, that 69 per cent of the people did not know anything about the government reorganization plan recommended by Herbert Hoover's commission, although the plan was aimed at saving the taxpayers \$3 billion a year.

Wayne Coy, chairman of the Federal Communications Commission, told the broadcasters there is the unpleasant prospect that television's competition may result in some casualties among newer radio stations. While forecasting that competition between television and radio for audience and sponsors "will become more and more severe," Coy de-

clared: "I am convinced that we will need not only a national system of television but that we will need an able system of aural (radio) broadcasting."

Coy expressed the hope that before the end of the year the FCC would resume the licensing of new television stations, halted since October, 1948.

### *Three Dimensions Achieved*

A TECHNIQUE for giving a third dimension to television images created by the industrial television system developed by the Radio Corporation of America was disclosed recently by Dr. V. K. Zworykin, vice president and technical consultant of the RCA laboratories. Dr. Zworykin's explanation came during a discussion and demonstration of lightweight industrial television equipment at a New England radio engineering meeting in Boston, sponsored by the North Atlantic region of the Institute of Radio Engineers.

A stereoscopic effect can be produced, he explained, by mounting two cameras side by side to view the same object from slightly different angles, in the same way the spacing of two normal human eyes produces the effect of "depth of vision," known as "perspective" effect. Television signals, corresponding to the two offset views, would then be transmitted to two kinescopes—through the air or by cable—and the separate images would be combined and viewed through special filters to yield a three dimensional effect.

This extension of the industrial television system, Dr. Zworykin said, would require a minimum of additional equipment and would extend the system's usefulness in special applications. The industrial television system, first disclosed on March 7th in New York by RCA research scientists, has many uses in the fields of industry and science, it was said. It does not normally broadcast on the air, as in the case of ordinary television for the home, but is conveyed by wires or cables from the pick-up camera to one or more viewing screens.



# Financial News and Comment

By OWEN ELY

## *Trust and Pension Funds May Stimulate Market Interest In Utility Equities*

AFTER several years' delay, and despite the fact that the bull market has now been under way for nearly a year, various moves to permit or encourage the investment of trust funds, pension funds, etc., in common stocks are now approaching consummation. A large number of pension funds are now being set up and many of them are showing increasing interest in common stocks. Attention has been drawn to the New York Federal Reserve Bank's pension fund, which includes a selected list of equities, as well as to corporate pension funds such as that of United Fruit. Governor Dewey on April 5th signed a bill which collates and liberalizes the various regulations dealing with the investment of legal trust funds in New York state. It is generally anticipated that this will pave the way for similar easing of the restrictions on investment of life insurance funds in this state.

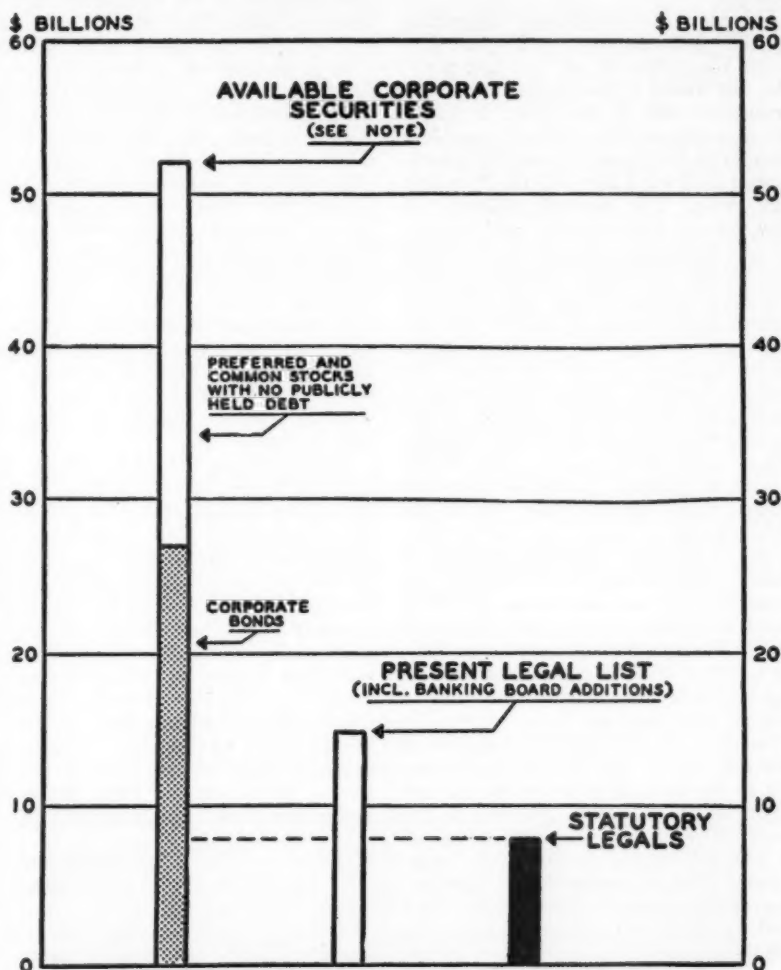
The trust division of the New York State Bankers Association in October, 1949, issued its 168-page report, which paved the way for the new law. This study pointed out that the income from trust funds has declined sharply in the past two decades. Eighty-six unrestricted trust funds in 1947 yielded only 3.6 per cent compared with 5.5 per cent in 1926; and 42 restricted trusts yielded 3 per cent compared with 4.6 per cent in

1926. Average yields on Moody's Aaa-rated bonds averaged only about 2.6 per cent.

THE committee's survey covered a total of over 20,000 trusts with an aggregate value of over \$4 billion, of which about 20 per cent by volume was limited to legal investments. The committee found that the official New York "legal list" has failed to provide as broad and satisfactory a selection of investments as other methods used elsewhere, and that in spite of its rigid rules it has not proved very successful in setting up standards of quality. It has failed to recognize changing conditions in different industries (particularly railway transportation) and corrective legislation to set up revised standards has been tardy. Moreover, market premiums usually

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**NOTE:** This is not a precise measure of the total corporate field. It is the sum of the total value of the preferred and common stocks shown in Exhibit A (no public debt) plus a rough projection into 1948 of the total par amount of corporate bonds as estimated by the National Bureau of Economic Research for 1944, the last year of the Corporate Bond Study. The total available corporate field would be considerably larger. National Bureau figures for total corporate bonds and figures for legal bonds exclude private placements, equipment trust certificates and serial issues.

*From "A Report by the Trust Investment Study Committee"*

## PUBLIC UTILITIES FORTNIGHTLY

have to be paid for legal issues over the nonlegal.

The committee considered suggesting that the legislature make a complete shift to the Massachusetts or "prudent man" rule, but found it inadvisable to ask for a complete shift at this time. It therefore concentrated on an effort to explore the intermediate area between the severely restricted legal list and the "prudent man" rule. The methods followed in New Jersey, Pennsylvania, and a number of other states, as well as the use of financial agency ratings, were considered.

The committee did not agree with the concept back of most legislation controlling trust investments, which considers the trustee to be a conservator rather than creator of capital. Trusts must be productive, and too severe a statute defeats its own ends. A statute should provide help as well as restriction, and should outline a general frame of reference rather than complicating provisions which cannot be easily applied by inexperienced trustees. A greater amount of discretion should be given to trustees, the committee held, and limitations should be stated in general rather than statistical terms. There is no logical basis for linking trustees' investments to those of savings banks because of the differences in purpose and function.

Nearly half of the present legal list is now selected by the banking board outside of the formula provided by the law itself, under discretion granted to the board. The investment program should be adapted to the needs of the beneficiaries. The committee favored permitting trustees to buy common stocks; New York is one of only twelve states which still limits trustees to bonds.

**I**N proposing an "illustrative statute" as the basis for discussion, the committee suggested that trustees be permitted (not required) to invest 35 per cent of the aggregate market nonlegal securities. However, if investments are made in preferred and common stocks these must be listed on an exchange (except as to bank or insurance stocks), and the selection should conform to the "standard

of prudence." This proposal has now been enacted by the legislature, and becomes effective July 1st.

The report presented in an appendix a large number of tables and charts to illustrate its views; Exhibit "C" showed the dividend record since 1919 of leading American companies, arranged by industries. Unfortunately these lengthy exhibits did not contain any utility stocks. Exhibit "A" showed companies with no publicly held debt, Exhibit "B" gave the dividend record of certain industrial preferred stocks, and Exhibit "C" gave the dividend record of 131 common stocks. It is understood, however, that the committee did not intend any discrimination against utility equities, but merely wished to stress the possibilities in selecting industrial common stocks of companies with no funded debt.

The psychological effects of the new law may be even more important than the immediate market effects, it is thought, since the state of New York is the leading financial state and its regulations in matters of this sort will have a considerable influence not only on the legislatures of other states, but also on the policies pursued by existing executors, trustees, and other fiduciaries. Many of these already have the power under the terms of the trusts which they control to broaden their investments. With this official blessing, they are likely to be more liberal in future in their investment policy than they have been previously.

**T**HE New York Society of Security Analysts recently devoted one of its luncheon forums to a discussion of the "Prudent Man Act" and of pension funds. The meeting brought out almost a record attendance, indicating intensive Wall Street interest in the topic. Ten-minute addresses were given by Howard F. Vultee, vice president of the Marine Midland Trust Company, Patrick J. James, investment officer of the Chase National Bank, and Edward F. Stauderman, assistant vice president of the Bank of the Manhattan Company. A half-hour's time was also devoted to the question and answer period. Some of the



## FINANCIAL NEWS AND COMMENT

points brought out in this discussion were the following:

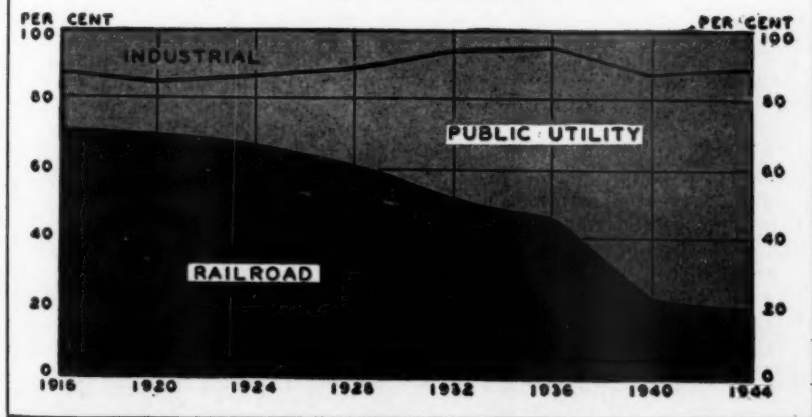
It is difficult to get exact figures on the reinvestment of funds which may be initiated when the "Prudent Man Act" becomes effective July 1st. There are said to be about \$13-\$14 billion of trust funds in New York state, of which, however, only about \$3 billion are in restricted or legal trusts. This would leave roughly \$1 billion for reinvestment, but some of this might go into nonlegal bonds and preferred stocks. Hence it appears unlikely that more than \$200,000,000 to \$300,000,000 of trust funds will be reinvested in common stocks over the near-term future.

It is rather unfortunate that the new law could not have been put in operation a year earlier. Stocks have now enjoyed an almost uninterrupted advance since last summer, and may be still higher by July 1st. This may tend to retard initial investments in common stocks on the part of some trustees. However, in response to a question as to whether trustees might be depended upon to "buy low and sell high," Howard Vultee pointed out that

trustees are "only human" and many of them may easily become infected with future bull or bear market psychology. For this reason it is reported that Harvard University has set up an investment formula for the guidance of its investment committee.

EDWARD F. STAUDERMAN pointed out that the purchasing power of the average legal trust has been reduced (disregarding any change in principal amount) by 75 per cent over the past twenty years, and by 50 per cent in the past ten years. This has resulted from the combined effects of declining interest rates, higher taxes on income, and the lower purchasing power of the dollar. Some trustees, in an effort to improve the income for beneficiaries, have invested in second-grade or high-yield railroad bonds, which still remain on the legal list. It appears likely that some trustees are now selling these second-grade holdings, and will move these funds into good common stocks after July 1st, for greater diversification and for protection of income.

**DISTRIBUTION BY INDUSTRY OF BONDS  
RATED IN THE FIRST TWO GRADES  
AT FOUR YEAR INTERVALS, 1916-1944**



## PUBLIC UTILITIES FORTNIGHTLY

There was some discussion regarding the range of selection of common stocks which might be followed by trustees. It was generally felt that there would be a tendency to concentrate on listed stocks of "blue chip" caliber or reputation. However Mr. Vultee indicated that so far as his policy with respect to the investment of his bank's trust funds is concerned, the choice would not be limited to traditional "blue chips." He also stated that he preferred to consider the "prudent man" not as one who would be prudent with his own funds, but rather as a careful investor of other people's money—since he would naturally be more conservative in the investment of the funds of others.

**A.** WILFRED MAY, executive editor of the *Commercial and Financial Chronicle*, also criticized the legal concept of the "prudent man," and in a recent *Chronicle* story ("Some Implications of the New Law Making Common Stocks Respectable in New York") further elaborated his ideas. After quoting Webster's various definitions of the word "prudence," he stated: "The breadth of the concept of Prudence as demonstrated in this full text of the dictionary definition, is the keynote of the various implications—both market and economic—of New York's joining with the 20 common stock states next July 1st. For the new statute, which is making financial history in permitting New York fiduciaries to invest in anything other than fixed-interest bonds, mortgages, and shares of savings and loan associations, is being widely heralded as the 'Modified Prudent Man Law' or 'Prudent Man Investment Statute.'"

Mr. May pointed out that the idea of the prudent man originated in Massachusetts in the case of *Harvard College v. Amory*, in which the court advised trustees to observe "how men of prudence, discretion, and intelligence manage their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of the capital to be invested." This concept of a conservative gentleman investor was

echoed in the famous case of *King v. Talbot*, now considered somewhat of a legal guide for New York state trustees. Mr. May is concerned, however, over the flexible meaning and indefinite character of the word "prudent," and the lack of workable standards in the legal opinions quoted. He feels that this lack of standards will accentuate the trend toward following the crowd, with resulting concentration in "name stocks." Obviously, the word prudent has little more significance than the words "reasonable" and "fair" which have proved so popular in the past for setting up legislative standards for state regulation of railroad and utility rates. Trustees may have to worry along until some jurist sets forth more definite standards, as was done in the historic *Smyth v. Ames* Case with respect to the regulation of utility rates.

**I**T is understood that very few legal trusts have been created in New York state in recent years, hence the "prudent" concept already has been applicable in most of the newer trusts. Trustees under these trusts have had wide discretion to buy common stocks, without even the limitation as to listing which is set up in the new law. Such freedom of choice was upheld a few years ago in an important decision by Surrogate Foley, who rejected the claim of a beneficiary against a trustee who had made substantial investments of trust funds in common stocks.

Some observers think that buying of equity stocks by pension funds may prove more important in future than purchases for legal trusts. Pension funds are now growing rapidly and one authority has estimated that they may amount to \$1.5 billion by the end of 1950. It is said that the average fund is currently invested about as follows: 60 per cent in bonds, 15 per cent in preferred stocks, and 25 per cent in common stocks. By this means the funds are able to raise their average income from about 2½ per cent to 3.35 per cent. (Preferred stocks yield about 3.9 per cent and good common stocks about 5.2 per cent.)

There have been recent discussions concerning changes in New York state

## FINANCIAL NEWS AND COMMENT

regulations affecting life insurance company investments, to permit them to allocate perhaps 4 per cent of their investment funds to equities. Total assets of all the life insurance companies approximate

\$60 billion, of which approximately \$24 billion is represented by insurance companies in the state. Even 4 per cent of the latter amount would be nearly a billion dollars. The step has been opposed



### CURRENT UTILITY STATISTICS AND RATIOS

		Amount		Per Cent	Increase
	Unit Used	Latest Month	Latest 12 Mos.	Latest Month	Latest 12 Mos.
<b>Operating Statistics (February)</b>					
Output KWH—Total .....	Bill, KWH	24.3	293.6	6%	3%
Hydro Generated .....	"	7.7	—	6	—
Fuel Generated .....	"	16.5	—	5	—
Capacity .....	Mill. KW	63.6	—	11	—
Customers, no. ....	Mill.	43.2	—	5	—
Fuel Use: Coal .....	Mill. tons	6.7	—	D10	—
Gas .....	Mill. MCF	37.4	—	22	—
Oil .....	Mill. bbls.	7.5	—	60	—
Coal Stocks .....	Mill. tons	15.2	—	D43	—
<b>Sales, Revenues, and Rates (January)</b>					
KWH Sales—Residential .....	Bill, KWH	4.8	45	14%	13%
Commercial .....	"	3.3	36	9	8
Industrial .....	"	9.0	103	D1	D4
Total, incl. misc. ....	"	23.5	257	3	1
Revenues—Residential .....	Mill. \$	136	1,358	11	11
Commercial .....	"	93	1,028	8	7
Industrial .....	"	103	1,204	D1	D1
Total, incl. misc. sales .....	"	364	3,973	6	6
<b>Revenues and Income (January)</b>					
Elec. Rev., incl. sales to other utilities	"	402	4,393	5%	5%
Misc. Income .....	"	14	135	41	15
<b>Expenditures (January)</b>					
Fuel .....	"	63	698	D9%	D10%
Labor .....	"	76	860	8	5
Misc. Expenses .....	"	61	757	D1	2
Depreciation .....	"	36	388	12	7
Taxes .....	"	79	794	10	12
Interest .....	"	21	244	10	14
Amortization, etc. ....	"	2	22	D5	D15
<b>Earnings and Dividends (January)</b>					
Net Income .....	"	78	765	18%	15%
Preferred Div. (est.) .....	"	9	105	4	2
Bal. for Common Stock (est.) ....	"	69	660	19	18
Common Dividends (est.) .....	"	38	465	2	9
Balance to Surplus (est.) .....	"	31	195	55	105
<b>Utility Financing (February)*</b>					
Bonds .....	"	99	659**	D60%	2%
Stocks .....	"	70	172**	1,067	162
Total .....	"	169	831**	D34	17
<b>Life Insurance Investments (January 1st-April 15th)</b>					
Utility Bonds .....	"	—	292	—	47%
Utility Stocks .....	"	—	61	—	1,425
Total .....	"	—	353	—	74
% of All Investments .....	"	—	20%	—	54

D—Decrease. \*Data for all utilities (electric, gas, telephone, etc.), including refunding issues. \*\*Two months ended February 28th.

## PUBLIC UTILITIES FORTNIGHTLY

by the Metropolitan Life Insurance Company and the Equitable, but has been favored by the Mutual Life and the New York Life. It will probably continue to be debated for some time, although the State Superintendent of Insurance, Mr. Dineen, is expected to resubmit the matter to the legislature next year.

**A** NUMBER of states already permit small percentages of the investments of life insurance companies to be devoted to common stocks. Federal legislation has also been proposed to permit these companies to invest 3 per cent to 5 per cent of their assets in common stocks. In the meantime, some of the Massachusetts life insurance companies have been buying small quantities of equities, which they were authorized but until recently had not elected to do.

Over the last few months the stock market has reflected a considerable shifting of funds into equities, reflecting a change in psychology on the part of the American public, which has concluded that bonds provide too small a return as well as inadequate protection of capital over the long pull if present inflationary trends continue to play a dominant rôle in our economy. Open-end investment trusts or "mutual funds," which invest almost entirely in common stocks, have been gaining in popularity, and their assets have passed the \$2 billion mark. Net sales to the public of these shares may exceed \$400,000,000 in 1950. There is some tendency on the part of fiduciary

funds to purchase these open-end trust stocks instead of individual securities, thereby gaining diversification, eliminating the risk of selection of individual stocks, and perhaps avoiding future criticism from beneficiaries or courts. In the open-end trusts emphasis is naturally given to better-known companies and to defensive securities, plus good secondaries.

Thus we now have, after a period of several years' market "doldrums," a growing demand for equities fulfilling certain characteristics—quality, dividend safety, and relative earnings' stability in business recessions. Stock groups mentioned as likely to prove popular for trust and pension funds include utilities, bank and insurance stocks, integrated oil companies, foods, chain stores, etc.

**T**HE appendices to the report made by the bankers' "Trust Investment Study Committee" did not include lists of utility stocks, since stress was laid on industrial stocks of companies with no funded debt; however, it is understood that this did not imply any criticism of the utility stocks. Utility stocks would appear to be an outstanding group since they still provide good yields, and their earning power and dividend payments are historically much more stable than for most other groups (with the possible exception of bank and insurance stocks). The strong position of utility bonds as legal investments is illustrated by the accompanying charts, pages 631 and 633.

### CURRENT COST OF UTILITY FINANCING *Yields on Various Types of Utility Securities*

	Recent	1949-50 Range		1948 Range	
		High	Low	High	Low
*Government Bonds—Tax Exempt .....	1.36% <sup>b</sup>	1.82%	1.32%	2.08%	1.68%
—Taxable .....	2.28 <sup>b</sup>	2.40	2.14	2.44	2.38
*Utility Bonds—Aaa .....	2.59 <sup>a</sup>	2.77	2.55	2.90	2.72
—Aa .....	2.66 <sup>a</sup>	2.84	2.63	3.01	2.82
—A .....	2.77 <sup>a</sup>	3.02	2.75	3.09	2.92
—Baa .....	3.15 <sup>a</sup>	3.45	3.14	3.49	3.26
Utility Preferred Stocks—High Grade ....	3.73 <sup>a</sup>	4.02	3.72	4.20	3.88
—Medium Grade ..	4.14 <sup>a</sup>	4.57	4.13	4.65	4.44
Utility Common Stocks .....	5.34 <sup>b</sup>	6.26	5.28	6.41	5.48

\*Long Term. a—Moody Index. b—Standard & Poor's Index.

# FINANCIAL NEWS AND COMMENT

## RECENT FINANCIAL DATA ON GAS COMPANY STOCKS

	4/19/50 Price About	Indicated Dividend Rate	Approx. Yield	12 Mos. Ended	Share Cur. Period	Earnings Prev. Period	% In- crease	Price- Earnings Ratio
<b>Natural Gas—Retail</b>								
C Arkansas Natural Gas ....	10	\$ .60	6.0%	Dec.	\$1.26	\$1.44	D6	8.0
O Atlanta Gas Light .....	22	1.20	5.5	Dec.	1.90	1.71	11	11.6
S Columbia Gas System ....	14	.75	5.4	Dec.	.87*	1.12*	D22	16.1
C Consol. Gas Util. ....	13	.75	5.8	Jan.	1.53	1.77	D14	8.5
S Consol. Nat. Gas .....	46	2.00	4.3	Dec.	3.59	3.75	D4	12.8
O Equitable Gas .....	25	1.30	5.2	Dec.	1.84	1.46	26	13.6
O Houston Nat. Gas .....	16	.80	5.0	July	1.45	1.42	2	11.0
O Indiana Gas & Water ....	22	1.20	5.5	Feb.	1.88	1.46	29	11.7
O Kansas-Neb. Nat. Gas ....	17	1.00	5.9	Dec.	1.63	1.55	5	10.4
S Laclede Gas Light .....	7	.20	2.9	Dec.	.84	.91	D8	8.3
C Lone Star Gas .....	26	1.20	4.6	Dec.	1.79	2.26	D21	14.5
O Minneapolis Gas .....	18	1.00	5.6	Dec.	1.04**	.94**	11	17.3
O Mission Oil .....	45	2.20	4.9	Dec.	2.05	2.04	—	22.0
O Mobile Gas Service .....	27	1.60	5.9	Dec.	2.72	2.83	D4	9.9
S Montana-Dakota Util. ....	13	.80	6.2	Dec.	1.25	1.18	6	10.4
C National Fuel Gas .....	12	.60	5.0	Dec.	.88	.61	44	13.6
O National Gas & Oil .....	6	—	—	Dec.	.58	1.40	D59	10.3
C Okla. Natural Gas .....	33	2.00	6.1	Feb.	2.95**	3.41**	D13	11.2
S Pacific Lighting .....	55	3.00	5.5	Dec.	2.86**	3.96**	D28	19.2
C Pacific Pub. Service .....	15	1.00	6.7	Dec.	2.08	3.21	D50	7.2
S Peoples Gas L. & C. ....	128	6.00	4.7	Dec.	10.23	8.82	16	12.5
C Rio Grande Valley .....	24	.12	4.8	Dec.	.19	.20	—	13.2
O Rockland Gas .....	33	1.70	5.2	Dec.	2.73	3.36	D19	12.1
O Southern Union Gas .....	21	.80	3.8	June	1.53PF	—	—	13.7
O Southwest Nat. Gas .....	7	.20	2.9	Dec.	.42	.33	27	16.7
S United Gas .....	18	1.00	5.6	Dec.	1.43	1.71	D16	12.6
S Washington Gas Light ....	26	1.50	5.8	Feb.	2.03	1.45	40	12.8
Averages .....			5.2%					12.7
<b>Natural Gas—Wholesale and Pipeline</b>								
S American Natural Gas ....	31	\$1.20	3.9%	Dec.	\$1.74**	.61**	185	17.8
S El Paso Nat. Gas .....	27	1.20	4.4	Jan.	1.84	2.42	D24	14.7
O Interstate Nat. Gas .....	31	2.00	6.5	Dec.	2.03	1.71	19	15.3
O Mississippi Riv. Fuel ....	35	2.00	5.7	Dec.	2.23**	1.87**	19	15.7
O Missouri-Kansas P. L. ....	44	1.60	3.6	Dec.	4.24	1.32	221	10.4
O Mountain Fuel Supply ....	21	.60	2.9	Dec.	.91	.91	—	23.1
S Northern Nat. Gas .....	37	1.95	5.3	Dec.	2.73**	2.60**	5	13.6
S Panhandle East. P. L. ....	44	2.00	4.5	Dec.	2.54	2.35	8	17.3
O Republic Natural Gas ....	46	1.00	2.2	June	3.03	2.72	11	15.2
S Southern Nat. Gas .....	38	2.00	5.3	Dec.	3.27**	2.85**	15	11.6
O Southern Production .....	10	—	—	Sept.	.38	.28	36	26.3
O Southwest Gas Prod. ....	12	—	—	Dec.	.47	.14	236	25.5
O Tenn. Gas Trans. ....	30	1.40&Stk	4.7	Dec.	1.65**	1.27**	30	18.2
O Texas Gas Trans. ....	17	—	—	Dec.	.81	.66	23	22.2
O Texas East. Trans. ....	20	64%Stk.	—	Dec.	1.58	1.18	34	12.7
Averages .....			4.5%					17.3
<b>Manufactured Gas—Retail</b>								
C Bridgeport Gas .....	24	\$1.40	5.8%	Dec.	\$1.88	\$1.60	18	12.8
O Brockton Gas Lt. ....	19	1.00	5.3	Dec.	1.48	.43	244	12.8
S Brooklyn Union Gas ....	43	2.00	4.7	Dec.	4.32	1.21	257	10.0
O Hartford Gas .....	37	2.00	5.4	Dec.	2.67	1.85	44	13.9
O Haverhill Gas Lt. ....	28	1.80	6.7	Feb.	2.12	1.70	25	13.2
O Jacksonville Gas .....	32	1.40	4.4	Dec.	6.06	5.64	7	5.3
C Kings County Ltg. ....	9	.40	4.4	Dec.	.64	—	—	14.1
O New Haven Gas Light ....	28	1.60	5.7	Dec.	1.76	1.77	—	15.9
O Providence Gas .....	10	.60	6.0	Dec.	.73	.64	14	13.7
O Seattle Gas .....	14	.60	4.3	Dec.	1.49	.70	113	9.4
S United Gas Improvement .	29	1.30	4.5	Dec.	2.02	1.69	20	14.4
Averages .....			5.2%					12.3

# PUBLIC UTILITIES FORTNIGHTLY

## RECENT FINANCIAL DATA ON TELEPHONE, TRANSIT, AND WATER COMPANIES

	4/19/50 Price About	Indicated Dividend Rate	Approx. Yield	12 Mos. Ended	Share Cur. Period	Earnings Prev. Period	% In- crease	Price- Earnings Ratio
<b>Telephone Companies</b>								
<i>Bell System</i>								
S Amer. Tel. & Tel. ....	156	\$9.00	5.8%	Mar.	\$9.65*	\$9.24*	4%	16.2
O Cinn. & Sub. Bell Tel. ....	74	4.50	6.1	Dec.	4.80	3.76	28	15.4
C Mountain Sts. T. & T. ....	100	6.00	6.0	Mar.	6.48**	6.25**	4	15.4
C New England Tel. ....	97	4.75	4.9	Dec.	7.19	4.59	57	13.5
S Pacific Tel. & Tel. ....	109	7.00	6.4	Feb.	7.20*	6.42*	12	15.1
O So. New Eng. Tel. ....	32	1.80	5.6	Dec.	2.05	1.91	7	15.6
Averages .....			5.8%					15.2
<i>Independents</i>								
S General Telephone ....	30	\$2.00	6.7%	Dec.	\$2.16	\$2.39	D10%	13.9
C Peninsular Tel. ....	46	2.50	5.4	Dec.	5.66	5.25	8	8.1
O Rochester Tel. ....	13	.80	6.2	Dec.	1.13	.80	41	11.5
<b>Transit Companies</b>								
O Baltimore Transit ....	2	—	—	—	—	—	—	—
O Chicago S.S. & S.B. ....	8	\$1.00	12.5%	Dec.	\$ .91	\$1.40	D35%	5.7
O Cinn. St. Ry. ....	5	.30	6.0	Dec.	.77	1.57	D51	6.5
O Dallas Ry. & Term. ....	11	1.40	12.7	Dec.	1.39	2.27	D39	8.6
O Duluth Sup. Trans. ....	9	1.00	11.0	Dec.	.44	2.75	D84	—
O Kansas City Pub. Ser. ....	1	—	—	Aug.	.02	—	—	—
O Los Angeles Transit ....	5	.50	10.0	Dec.	.93	.87	7	5.4
S Nat'l. City Lines ....	9	1.00	11.1	Dec.	1.97	1.57	25	4.1
O Phila. Transit ....	4	—	—	Dec.	1.03	.31	232	2.9
O Rochester Transit ....	3	—	—	—	—	—	—	—
O St. Louis Pub. Ser. A. ....	6	.50	8.3	Dec.	.48	.70	D31	12.5
O Syracuse Transit ....	19	2.00	10.5	Dec.	.62	1.40	D13	—
O United Transit ....	24	—	—	Dec.	.55	.13	246	5.0
Averages .....			10.3%					6.3
<b>Water Companies</b>								
<i>Holding Companies</i>								
S Amer. Water Works ....	11	\$ .60	5.5%	Dec.	\$ .81	\$ .88	D8%	13.6
O N. Y. Water Service ....	117	2.00	1.7	Dec.	8.15	4.54	80	14.4
<i>Operating Companies</i>								
O Bridgeport Hydraulic ....	31	\$1.60	5.2%	Dec.	\$1.62*	\$1.65*	D2%	19.1
O Calif. Water Serv. ....	31	2.00	6.5	Feb.	2.46**	2.26**	9	12.6
O Elizabethtown Water ....	105	6.00	5.7	Dec.	6.89	7.33	D6	15.2
S Hackensack Water ....	34	1.70+	5.0	Dec.	3.35	2.79	20	10.1
		25% Stk.						
O Indianapolis Water ....	18	.80	3.9	Dec.	1.33	1.42	D6	13.5
O Jamaica Water Supply ..	22	1.50	6.8	Dec.	2.27PF	—	—	9.7
O Middlesex Water ....	55	3.00	5.5	Dec.	4.87	4.94	D2	11.3
O New Haven Water ....	60	3.00	5.0	Dec.	3.45	3.61	D4	17.4
O Ohio Water Serv. ....	20	1.50	7.5	Sept.	2.00	2.31	D13	10.0
O Phila. & Sub. Water ....	24	.80	3.3	Dec.	3.01	2.70	11	8.0
O Plainfield Union Wt. ....	70	4.00	5.7	Dec.	5.09	5.02	1	13.8
O San Jose Water ....	33	2.00	6.1	Dec.	2.80	2.67	5	11.8
O Scranton-Spring Brook ...	14	.70	5.0	Sept.	.83	.87	D5	16.9
O Southern Cal. Water ....	45	3.25	7.2	Dec.	4.08	4.13	D1	11.0
O Stamford Water ....	56	2.00	3.6	Dec.	2.35	2.21	6	23.8
O West Va. Water Serv. ...	17	1.20	7.1	Dec.	1.48	1.39	7	11.5
Averages .....			5.5%					13.5

D—Decrease or deficit. E—Estimated. C—Curb Exchange. O—Over-counter or out-of-town exchange. S—New York Stock Exchange. \*Based on average number of shares outstanding. \*\*Based on present number of shares now outstanding. PF—Pro forma.





# What Others Think

## The NAEC Strikes Back



WASHINGTON correspondents and editors from all parts of the country assembled at a press breakfast in Washington recently and heard representatives of the electric utility industry charge that the government's rapidly expanding power program is contrary to the public interest. The occasion was the annual press breakfast sponsored by the National Association of Electric Companies, at which a report of important issues and accomplishments of the industry was presented to the press.

P. L. Smith, president of the National Association of Electric Companies, served as chairman at the breakfast, and in his opening statement declared as follows:

We do not think that the job of bringing power to the people necessarily involves government steam plants, duplicating transmission lines, tax discrimination against the customers of private companies, or so-called "preference clauses" which channel Federal power to some of the people and away from others.

Smith stated that the electric companies stand ready to do their part of the job, in cooperation with government agencies. He cited the fact that the electric companies were pointing out certain trends in the public power program, not only because of the effect on the electric companies, but for a much broader purpose as well. "We think, in fact," the association president said, "that the decisions made with respect to providing power for the people have and will have a good deal to do with which way the country is going—and with the kind of country we want to have."

Some of the conditions pointed out were:

1. The mushrooming growth of the Federal power projects.
2. The lack of a clear Federal power policy.
3. Administrative interpretations of statutes which often seem contrary to the meaning of the statutes themselves.
4. Clear and undebatable examples of costly duplicated facilities.

THE utility representative emphasized to the newspapermen present that the purpose of this meeting was to bring more facts about the industry, about the government power programs, and about the basic political and social questions involved to the attention of more people. He asserted that whereas we all must abide by the decisions made by the people through their elected representatives, the industry has a recognizable right to speak its piece and to stand up and be counted.

Smith then gave the audience a "quick run down" on the basic position taken by the electric companies:

First of all, we believe in sound reclamation, flood-control, navigation, and other conservation measures in the public interest.

Second, we believe that the people—in urban communities, on the farm, in business and industry—should have all the power they need, at fair rates regulated by public bodies.

We believe that when sound conservation projects involve the construction of multiple-purpose dams, it is right and proper that electric power should be generated at these sites.

We do not believe, however, that such clearly beneficial activities as these serve as an excuse for moves by the government which tend to drive the privately owned and operated companies out of business.

## PUBLIC UTILITIES FORTNIGHTLY

The utility executives who spoke included J. E. Corette, Jr., vice president, Montana Power Company; Albert A. Cree, president, Central Vermont Public Service Corporation; Robert H. Gerdes, general counsel, Pacific Gas and Electric Company; John Dierdorff, vice president, Pacific Power & Light Company; Louis V. Sutton, president, Carolina Power & Light Company; and Frank M. Wilkes, president, Southwestern Gas & Electric Company.

### *Waste in the West*

FEDERAL government power plans to spend \$2 billion on new generating plants and transmission facilities in the Rocky mountain area, where 99 per cent of the population is already served with electricity, was the subject of remarks made by J. E. Corette, Jr., vice president of the Montana Power Company. Specifically, he declared that the Department of the Interior and the Corps of Engineers propose construction of 63 generating plants in the Rocky mountain area at a cost of more than \$1.7 billion and the building of 7,129 miles of transmission lines with related substations at a cost of more than \$315,000,000. The total cost of this Federal program would amount to \$2,043,000,000.

Every city, town, and village, and almost all the farms in this area now have electric service available to them. The area has 593,736 electric customers and approximately 99 per cent of the area's population is being served despite the fact that distribution lines must be strung over long distances to reach all the people.

In this connection he cited figures to show the reasonable rates in the Rocky mountain area which have enabled the public to enjoy the benefits of electricity on an increasing basis:

1. The area has 542 kilowatts of generating capacity for every one thousand of population compared with the national average of 387 kilowatts per one thousand.

2. Total sales in the area in 1948 amounted to 6,372 kilowatt hours per customer, compared with the national average of 6,073.

3. Residential sales amounted to 1,938 kilowatt hours per customer, compared with the national average of 1,563.

4. Residential revenue in the area averages 2.58 cents per kilowatt hour, well below the national average of 2.95 cents.

5. Total taxes paid by the four electric companies in the Rocky mountain area amount to \$20,668,825 annually, or about 5 per cent of the cost of their properties. They pay an average of 3.89 mills per kilowatt hour of energy sold as taxes.

CORETTE then discussed the opinion of the electric companies of the Rocky mountain area that the Federal government in its reclamation operations has strayed from the original purpose of reclamation law. According to the utility executive the companies in the area feel that reclamation projects as such are beneficial to the community and to the nation as a whole. On the other hand, concentration of government activities in building generating and power transmission facilities has operated to the detriment of the reclamation idea.

To support this claim, Corette then pointed out figures which showed that the number of acres of reclaimed and irrigated land has remained relatively constant in recent years while electric power figures increased proportionately with larger reclamation appropriations.

The Rocky mountain companies, in opposing the program, have offered to cooperate with the government in a way which will remove any excuse for the construction of Federal lines and will, at the same time, save billions of dollars for worth-while reclamation projects. According to Corette, the offer is as follows:

1. We are willing to cooperate in the development of sound reclamation projects in whatever manner we are able.

2. We are prepared to negotiate contracts with the Department of Interior for the purchase of power from reclamation projects, providing the greatest possible market for such power.

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3. We offer to transmit Federal power over our lines to preference customers of the government, to reclamation pumping plants, and to Federal hydraulic projects under construction. We also offer our facilities to interconnect Federal plants.

4. We are prepared to coordinate our generating plant construction program with the bureau's program, provided that we are given long-term contracts which will assure us that we will not be "left out on a limb."

### *Yankee Pride Still Standing*

THE case of the electric power situation in New England, an area currently in public power discussions, was presented by Albert A. Cree, president of the Central Vermont Public Service Corporation. The Vermont utility president declared that no real gains for the economy of New England could be seen in Federal hydro development in that section of the country.

To counterclaims that the New England economy is suffering, Cree pointed out that in 1940 the *per capita* income in the area was 26 per cent ahead of the rest of the nation. In 1948, while the national average had increased to \$1,410 *per capita*, the average in New England had increased to \$1,501 and was still in the lead.

The speaker told the gathering that New Englanders are not complacent about their present and future inasmuch as they recognize that adjustments in their economy are in process. But they do believe that New England will come out stronger and healthier than before if Yankee ingenuity is allowed to work the situation out without benefit of bureaucratic interference, direction, or subsidy. He cited the fact that since the end of the war there has been a gain of over 1,000 manufacturing enterprises in New England and the values added by manufacturing between 1939 and 1947 were almost tripled.

Cree showed that the public power propaganda attacks made shortly after the war on the basis of a power shortage

in New England have since been proved unfounded, with the lifting of necessary wartime controls which restricted the construction of electric power facilities. Companies at this time are engaged in a half-billion dollar construction program which has given the area an "unsurpassed interconnected power supply system."

Cree sighted the record of the utilities in the area in bringing electrical service to the farm and rural areas. He particularly pointed out the situation in his own state of Vermont where at present 98.9 per cent of the rural areas have electricity available. Connecticut has almost a 100 per cent record in rural electrification, and other New England states have done almost as well.

THE utility man then considered the high electric rate situation in New England which public power advocates maintain can be eliminated by hydro development of the New England rivers. He pointed out that the average cost of fuel burned in New England electric generating plants is approximately 50 per cent greater than for the nation as a whole and about ten times more than one large plant in the state of Texas. Natural cost elements such as this cannot be evaded by either the Federal government or by others. "But the government," according to Cree, "can shift some of those costs from the bills of the consumers to the taxpayers of the nation."

Cree pointed out that public power zealots had used a preliminary survey of the Federal Power Commission which reported that 3,000,000 kilowatts of hydro might be developed in the New England area. He informed his audience that these advocates had failed to mention that the Federal Power Commission figure was based on preliminary studies and "is simply a catalogue of projects which seem to merit further investigation."

He further added that the chief of the bureau of power of the Federal Power Commission at the Eastern States Conservation Conference in Boston, last August, stated that the hydro possibilities in New England were all peak power and that the 3,000,000 kilowatts of hydro,

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if it was all found feasible for development, would have to be supplemented by 9,000,000 kilowatts of steam, to make it the kind of firm power that electricity users must have available. He also pointed out that the public power people had not mentioned that "the development of that quantity of hydro capacity would flood out and ruin thousands of acres of fertile farm lands, towns, railroads, industries, and other things important to New England's economy and life."

The speaker concluded his remarks with the statement that "public power is *not cheap*." In support of this he cited the official summary of a report on a "Federal Power Policy Study" filed with the House Committee on Public Works of the 80th Congress by the Committee on Appropriations. The study committee said:

In general, Federal power is not cheap, but can be made to appear so by allocating substantial portions of the investment and expenses to other than power.

### *Can't Do Business with Reclamation?*

A SPECIFIC instance of an attempt by the Bureau of Reclamation to set up a competing power system was brought out by Robert H. Gerdes, general counsel of the Pacific Gas and Electric Company. Gerdes referred to the California Central valley project where the bureau is pressing plans to build an \$80,000,000 commercial power system despite continuing offers of PG&E to serve all existing and future needs in the same territory.

The territory involved already is completely served by the privately owned utility and the government has no customers unless they be taken away from the company. At present the company buys power generated at Shasta dam and since 1944 has paid the government more than \$26,000,000 for this power.

"Despite the obvious advantages of the present arrangement," Gerdes stated, "the Bureau of Reclamation has attempted to set up a competing power system. It has sought appropriations for

a wholly unnecessary steam plant; for unnecessary and duplicating substations, transmission and distribution lines.

"The cost of building this unnecessary system would be over \$80,000,000, and operating and maintenance costs, including annual fixed charges, would exceed \$5,000,000 per year."

The utility counsel outlined the experience of the company in dealing with the Interior Department in the matter of securing power from Shasta dam. He pointed out that under an agreement, which ran from 1943 through 1948, the company purchased all the power produced on the Shasta project. The price paid for the power was fixed by the bureau.

Since the contract expired, the company has been operating on a day-to-day agreement with the bureau, by which the company is obligated to take and pay for all of the power capacity and energy which the bureau declares to be available. As in the case of the expired contract, the price is set by the bureau. This price, according to Gerdes, during the last year averaged 5.1 mills—about five times what the bureau charges the Bonneville Power Administration for Grand Coulee power. The power is sold through the company's system under rates fixed by the public utilities commission of the state. The price is thus fixed on both ends of the company's operations.

As evidence of the bureau's determination to expand its operations in the Central valley area, Gerdes noted that in 1943, the then Secretary of the Interior, Harold Ickes, ignored a rejection by Congress of a request for funds to construct a 60-mile line from Shasta dam to Oroville. Ickes ordered the line built out of "unexpended balances."

Gerdes then called the attention of the audience to the situation in the Kings river controversy. He called it a glaring example of the efforts of the bureau to construct a commercial power system under the guise of reclamation. In this case the Department of the Interior is opposing a company application for a Federal Power Commission license to enlarge the

## WHAT OTHERS THINK



"WOULD IT BE ASKING TOO MUCH TO BUILD A TABLE FOR IT?"

company's existing Balch power plant and construct three new plants on the Kings river with total capacity of 243,000 kilowatts.

He pointed out that at a recent hearing on the matter a report of the California state engineer and the staff of FPC showed that the Bureau of Reclamation plan for development of the area would be a power project solely and would not add a single drop of water to the Central valley project. It was further shown that the Federal project would be a financial burden and not a benefit to the Central valley project. As a result of the present facilities of the company and its record expansion program, Gerdes added that the power requirements of the Central valley area are being fully met by the

company and reserve margins, depleted during the war, have been reestablished.

Gerdes scored the uncoöperative attitude of the Department of the Interior in working out a contract with PG&E to serve preference customers of the government by pointing out that negotiations initiated last year by the company with the Bureau of Reclamation are still un-concluded. He stated that there was no basis for the statement made recently by Secretary Chapman that the Interior Department cannot make a contract with the company.

### *Discrimination in Electric Sales Hit*

**T**HE power problems peculiar to the northwest region country were discussed by John Dierdorff, vice president



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of the Pacific Power & Light Company. The utility executive pointed out that the Pacific Northwest area must look to the Columbia river for electric power to support the region growth. Because of the government's special privileges and immunities, no privately owned company or local agency can compete with it in the development of the nation's greatest hydroelectric stream. The northwest problem, Dierdorff stated, calls for a spirit of coöperation between the privately owned electric companies and the government agencies responsible for providing electric service to the region.

The utility man noted that the excessively large population growth in the states of Oregon and Washington since 1940, plus the establishment of a tremendous aluminum industry in the area, have loaded the power facilities to capacity. He stated that at the present time the tight power situation must await completion of a new Federal dam now under construction.

The speaker said that the completion of these dams will not solve the basic question of a Federal power policy which affects not only the citizens of the Pacific Northwest but the citizens of every region where the government is developing hydro power. He referred to the discrimination of present Federal power sales policy as being a specific point to be considered. He went on to say that Uncle Sam, as a power producer, has no more right "to discriminate against American citizens who freely choose to be served by a private electric company than he has to refuse equality of citizenship to certain people . . ."

He then urged that the northwest companies fight as vigorously as possible for the rights of their customers to share equitably in the power that is generated at the Federal plants in the region. These customers represent two-thirds of the 1,200,000 electric customers in Oregon and Washington.

**H**E pointed out that the public, today, doesn't seem to be greatly interested in public ownership promises that were offered ten or fifteen years ago. As

evidence of this he noted that no public utility district had been organized in either Washington or Oregon from 1941 to date, although at least a dozen proposals have been submitted to the voters.

Dierdorff dealt with a third reason for the acute power situation in the Northwest when he outlined the government's power monopoly position in the region. He stated that when the government, with all of its special privileges and immunities, goes into a field of business it automatically erects barriers to the natural flow of investment capital into that field.

**N**o private company or local public agency can compete with the government in its multipurpose plans to harness the Columbia river system—the logical source of power supply because of high fuel prices in the Pacific Northwest. In view of this the companies have no alternative but to support this Federal development and try to keep it going forward on something like a partnership basis.

He cited the fact that back as early as 1933 the power companies in the area had to make a policy decision to accept and work with the Federal projects then under construction. He noted that the complexities of the situation in the Pacific Northwest were not easily understandable by other associates in the electric industry but that the policy decided upon seemed to be the most practical.

Dierdorff then stated that today many of the public utility districts organized in the earlier years in the area are confronted with just as many problems as the privately operated companies. In the past year or two there have been more PUD rate increases than rate reductions. He added that the privately owned companies are in a better position than ever before to hold their own against the public ownership ideas. He went on to say that the people of the area have only to "look over the back fence to see that a heavily bonded PUD, under political management, has little to offer in the way of either rates or services."



## WHAT OTHERS THINK

### *Government Charged with "Deception"*

LOUIS V. SUTTON, president of the Carolina Power & Light Company, told the press breakfast audience that one pattern was applicable to all of the government or political power projects; namely, that everyone of them has been started as something else. Some of the worthy objectives first proposed, he added, were for flood control, navigation, soil conservation, reclamation, or national defense.

As an example he referred to the "Santee-Cooper project" of the South Carolina Public Service Authority. It was created for the development and conservation of the natural resources, to develop navigation for flood control, to reclaim swampy lands, and to provide power for new industry. It was not to compete with or damage the power industries in the state.

He pointed out that, during the year 1942, a number of years after this authority was created, it endeavored to purchase the Columbia, South Carolina, electric, gas, and transportation properties. The South Carolina Supreme Court, in a test case, decided against the authority. Several years later it was also unsuccessful in acquiring the Charleston, South Carolina, electric and gas properties. At that time the authority threatened the company with "competition to the Nth degree" if the property was not sold to it.

Sutton went on to point out the authority's sponsorship of the organization of fourteen rural electric coöperatives in the state into a central coöperative. He stated that the authority then assisted this new co-op in obtaining a large loan from the Rural Electrification Administration for purposes of constructing more than 800 miles of transmission lines which, for the most part, will parallel existing transmission lines owned by three investor-owned companies. The speaker added that the fourteen electric coöperatives are now being served adequately at a low 7½-mill rate by the private companies. If and when the proposed transmission system is constructed they will be served by

### *South Carolina Public Service Authority.*

SUTTON likened the situation in the Tennessee Valley Authority to that of most Federal projects. In that case, he said that the operations of TVA were to be used as a "yardstick" to gauge what actually was a fair price for electric power. He pointed out that this experiment has proved to be unworkable since only 13 per cent of the total kilowatt capacity of TVA is delivered to residential customers. One-half of the power went to large industrial and commercial customers at the low rate of 3½ mills per kilowatt hour. He added that it is a fallacy to think of government-generated power as cheap power. When all costs are taken into consideration, it is not cheap power.

Sutton declared that there is every indication that American people do not want a nationalized electric power industry but, by indirection and subterfuge, such nationalization is being accomplished.

### *REA-Interior Department Alliance*

THE "infamous and illegal alliance" of the Rural Electrification Administration and the Department of the Interior was denounced by Frank M. Wilkes, president of the Southwestern Gas & Electric Company, as responsible for the Department of the Interior and other members of the "public power trust" having the "complete nationalization of the electric utility industry within their grasp." Wilkes traced the origins of the Rural Electrification Act of 1936, pointing out that the purpose of the Rural Electrification Administration was to provide electric service to persons in rural areas who are not receiving central station service. He emphasized this as being a limitation as to how the \$2,375,000,000 appropriated for rural electrification purposes must be expended.

He also called the attention of the audience to the Flood Control Act of 1944, which provides that power and energy from multipurpose projects constructed by the Army Engineers should be delivered to the Department of In-

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terior. Interior is then required to transmit and dispose of such power and energy at Federal Power Commission approved rates. He added that the act does not provide that the Department of Interior may purchase any kind of electric energy from any person whatsoever.

He then criticized the alliance between the Rural Electrification Administration and the Department of Interior by which both of these laws are avoided. He described this alliance as follows:

The Rural Electrification Administration loans money to a dummy corporation, known as a generating and transmission cooperative, to construct steam-generating plants and transmission lines as designed and laid out by the Department of the Interior. The transmission lines are leased in their entirety by and are delivered to the Department of the Interior for operation over a 40-year period, at the end of which time the lines become the property of the Department of the Interior upon payment of \$10, although they have cost millions upon millions of dollars to construct.

**T**HE utility president then went on to outline the operations of the contract between the super cooperative and the Department of the Interior:

The output of the steam-generating plants is sold in its entirety by super cooperative to the Department of the Interior, who agrees to pay the cooperative for the output of these plants at a price which is from 40 per cent to 50 per cent more than the cost of production of power and energy, including interest and amortization in such plants. This rather unusual gift is undoubtedly given by the Department of the Interior so as to induce the Rural Electrification Administration to approve these illegal loans.

The sale of this power from these steam plants is for forty years, whether the cooperative is able to obtain power from a cheaper source or not. The cooperative has no claim whatsoever on the output of this plant from the

time the contract is first signed. It is compelled to buy its power and energy from the Department of the Interior at Rate Schedule "A," which is set up for the purpose of hydro power and energy only and approved by the Federal Power Commission as being high enough to provide all operating expenses, including interest and amortization, on the power facilities in the dams and the cost of its transmission to the ultimate wholesale customer.

Wilkes termed the pending contract by the Southwestern Power Administration and the super cooperatives as one which would turn the member cooperatives over to the Department of the Interior as "captives." By this contract the Interior Department will have full access to books of records, accounts, and system of operation, rates and charges of member cooperatives at all times. As a result these cooperatives will never again be autonomous if these contracts go through. A result of these contracts will be that \$100,000,000 will be diverted from the clear purposes of the Rural Electrification Act.

**W**ILKES concluded by referring to a recent speech made by Assistant Secretary of the Interior Warne in which the government official pointed out that a public power grid was now possible from the Pacific to the Atlantic oceans. This would extend through the lines of Bonneville and the Grand Coulee to Fort Peck, Montana; thence down through the Missouri valley to Sioux City, Iowa; thence south to the Southwestern Power Administration lines; thence across the Mississippi river to New Johnsonville steam plant of the Tennessee Valley Authority and through its interconnections to the Atlantic ocean. He added that unless there was some way in which Congress will act to prevent this long step toward socialization, or some way in which the industry story can be told to the courts for their action, the socialization of the electric utility industry can readily be accomplished through this deal between the "public power trust and the Rural Electrification Administration."

# The March of Events



## In General

### Southeastern Names Officers

**T**HE Southeastern Electric Exchange, recently meeting at White Sulphur Springs, West Virginia, elected the following officers for the coming year:

W. O. Turner, Louisiana Power & Light Company, president; C. B. McManus, Georgia Power Company, first vice president; M. C. Funk, Appalachian Electric Power Company, second vice president; H. C. Leonard, Gulf States Utilities, third vice president; C. M. Oyer, South Carolina Electric & Gas Company, treasurer; and J. W. Talley, managing director.

Only two changes were made in the board of directors. O. O. Rae, southeastern district manager, Westinghouse Electric Corporation, was elected to replace Thomas Fuller, retired, and J. M. Archer, Jr., vice president, Nantahala Power & Light Company, was elected to replace J. E. S. Thorpe, deceased.

Addresses of the principal speakers will be reviewed in an early issue.

### Reclamation Draws Union Fire

**A**NOTHER Federal agency—Bureau of Reclamation—has aroused the ire of the International Brotherhood of Electrical Workers (AFL), whose international president, Daniel W. Tracy, recently sharply queried the Rural Electrification Administration on policies that he described as “antiunion.” (See page 581 of April 27th issue.)

In a letter to Senator Carl W. Hayden (Democrat, Arizona), chairman of the Interior Department Senate Appropriations Subcommittee, Leonard L. Mashino and James V. Vickery, presidents of Lo-

cals 122 and 532, respectively, of the IBEW, criticized the bureau for awarding a line construction contract to a contractor with a “long record of bad labor relations,” and at the same time said the proposed line “seems a waste of public money.”

Full text of their letter follows:

We understand that the order to go forward with the construction of the Havre-Shelby [Montana] line has been forwarded to the Smith Construction Company by the Bureau of Reclamation.

Since the awarding of the contract on December 6, 1949, our local unions and many others, as well as our international office, have vigorously protested this award on the basis that the contractor has a long record of bad labor relations.

Our efforts to contact and negotiate with this contractor during the construction of the Casper-Gering [Wyoming] line met with absolute failure, and bears out our contention that his past record precludes any possibility of amicable labor relations with him in Montana.

Until last year our local unions remained neutral in the controversy between the Reclamation Bureau power program and the private utilities because we felt that, whoever built the lines, they would provide more work opportunities for our membership. Developments to date have failed to bring forth any assurance that union men will be used on any of these bureau projects.

We know that if the necessary lines

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and other facilities are built by the existing utility companies our members will have the work, as we now have working agreements with all the utility companies in Montana.

On April 12, 1950, a press release by the Montana Power Company announced a new rate for REA coöperatives equal to the lowest rate offered by the Bureau of Reclamation. We have also been assured by Montana Power Company officials that any

necessary lines or transmission facilities to deliver power to the REA coöperatives will be provided.

Since this latest development, it seems a waste of public money to continue with an entirely unnecessary duplication of existing facilities.

We, therefore, respectfully request that construction of the Havre-Shelby line be suspended, and that appropriations for other proposed transmission lines be withheld at this time.

## California

### Trolley Bus Fleet to Be Increased

UTILITIES Manager James H. Turner, of San Francisco, has announced the city will purchase 50 more trackless trolleys for delivery in December. He said the new equipment, costing \$950,000, will be used to replace gasoline busses on certain lines of the Municipal Railway.

The new vehicles, which will seat 48 passengers each, will increase the railway's fleet of trackless trolleys to 348. Purchase of 88 more is contemplated later to be used in the conversion of other bus and streetcar routes.

In placing orders for the 50 busses, Mr. Turner said he would ask manufac-

turers to submit prices on a coach with "staggered" seating arrangements.

### San Diego Gas Rate Upped

THE state public utilities commission has authorized the San Diego Gas & Electric Company to make gas rate increases estimated at \$540,000 on an annual basis, or approximately 7 per cent. The company had asked for increases estimated to total \$972,000 on an annual basis.

In approving the higher rate, the commission estimated that the \$540,000 increase in gross revenue should result in a rate of return for the company of 5.65 per cent.

## District of Columbia

### Transit Radio Fight

THE United States District Court for the District of Columbia becomes the arena for the second round in a battle to bar radio broadcast reception in busses and streetcars of the Capital Transit Company. Attorneys for Transit Riders' Association, militant opponent of transit

radio, have filed an appeal from a public utilities commission decision approving "music-as-you-ride."

Among the matters ignored by the PUC, according to the association's attorneys, are the constitutional right to listen or not to listen, and regulations prohibiting the use of amplifying devices for advertising purposes.

## Michigan

### Detroit Rate Boost to High Court

THE city of Detroit will wage a supreme court fight over the \$13-

080,000 annual electric rate increase granted the Detroit Edison Company last year.

The increase was approved by the state

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public service commission January 6, 1949, and placed in effect January 24th of that year. A circuit court upheld the right of the commission to grant the increase, but notice of appeal has been filed with the Ingham county clerk's office by the Detroit corporation counsel.

### Gas Content Cut Approved

THE state public service commission has given permission to the Michigan Consolidated Gas Company to reduce the heating content of natural gas served Detroit and Ann Arbor.

Efforts by Detroit officials to block the move on the grounds that it would boost revenue were turned aside by the commission, which said the rate question could be considered after operational experience.

The Detroit corporation counsel con-

tended that a reduction in the BTU content would require customers to buy more gas to obtain the same amount of heat.

Commissioner Schuyler L. Marshall said the commission maintains a constant check on the company's operations and would institute proceedings for a rate reduction if conditions warrant after the plan has been put into effect.

The company has been receiving 1,000 BTU gas from the Panhandle Eastern Pipe Line Company, and 958 BTU gas from the Michigan-Wisconsin Pipe Line Company. The gas is intermingled in Detroit and Ann Arbor on peak days when demand exceeds the Panhandle supply.

Under terms of the order, the average monthly heating value shall be not less than 950 BTU's. The order left it up to the company not to cut the BTU content until necessary.

## Missouri

### Curbs on Natural Gas Use Removed

EFFECTIVE May 1st, the state public service commission recently removed restrictions in several Missouri cities placed on the use of natural gas for the commercial space heating of buildings where new installations are under way or proposed. The restrictions against these uses were placed in effect June 30, 1949, because of the limited

capacity of the pipeline of Cities Service Gas Company.

Affected by the order are these Missouri cities served by the gas service company: Kansas City, St. Joseph, Carthage, Independence, Higginsville, Carrollton, Joplin, Warrensburg, and 18 other smaller communities. The order also affects the Missouri Gas & Electric Service Company. Restrictions still are in effect in eastern Kansas.

## Montana

### MPC Slashes REA Rates

THE Montana Power Company recently filed a new rate schedule with the state public service commission which will reduce the average cost of power to Rural Electrification Administration co-öperatives served by the company from 8.7 mills to 5.5 mills per kilowatt hour. The new rate will save the coöperatives involved approximately \$136,000 a year, an average reduction of 37 per cent.

In filing the new schedule, J. E.

Corette, Jr., vice president and assistant general manager of the company, said:

This rate, which is identical to the rate charged by the Bureau of Reclamation for Missouri river basin power, has been adopted by the Montana Power Company in line with its policy of doing everything it can to aid the development of the states. We want to encourage and contribute to the extension of electric service to as many



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rural areas as possible, thus helping to develop those areas and business in general throughout Montana.

The new rate, which will benefit 12 REA coöperatives, will enable many of them to extend service to farms and ranches which now are not served. It is

the lowest rate charged coöperatives by any tax-paying utility company in the West, and equals the lowest rate charged by the Bureau of Reclamation to any coöperative for power service in the 17 western states, and is 1.58 mills below the average bureau rate for those states.

### Nebraska

#### Public Power District Operates at Loss

**D**ESPITE a revenue increase of \$22,000 over the previous year and a decline in the cost of power, the McCook Public Power District lost \$9,781 in 1949, according to a recent accounting filed with the state auditor.

Operating revenues totaled \$97,807 and operating expenses were \$90,528,

leaving a net of \$7,279, but district officials said charges for depreciation and interest rose during the year, accounting for the deficit.

Revenue last year was not adequate to cover the cost of serving new customers and the additional operating expense, district officials said, adding that additional customers to be connected this year may correct the situation.

### New Jersey

#### Municipal Plant Subject to Franchise Tax

**T**HE state division of tax appeals has ruled that a municipality owning and operating an electric plant and selling current to residents of an adjoining municipality is subject to the state franchise and gross receipts tax.

Handed down in a precedent-setting case involving the municipally owned Vineland power plant, the decision is an outgrowth of an opinion by the former state court of errors and appeals that the power plant was excluded from local taxes that adjoining Landis township sought to impose on property in the township owned by the Vineland plant.

After the errors court in effect held

that the borough could be taxed only under the franchise and gross receipts tax acts, the state division of taxation proceeded to impose the taxes for the years 1948 and 1949. The borough appealed to the division of tax appeals.

The decision by the division of tax appeals said the franchise and gross receipts tax acts make no distinction between private corporations and municipal corporations using the streets and highways for distribution of power.

Unless reversed in the courts, the decision just handed down means that the township will be entitled to \$85,502.95 from the franchise and gross receipts taxes for 1948 and 1949. The taxes are assessed by the state and apportioned to affected municipalities.

### New York

#### Savings Banks Can Invest More in Utilities

**G**OVERNOR Thomas E. Dewey has signed into law a bill which in-

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creases from 10 to 25 per cent of the assets of savings banks the amount which they are authorized to invest in bonds of gas and electric corporations, and makes other amendments to § 235 of the



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State Banking Act affecting savings institutions.

Among other things, the new act provides that 80 per cent, instead of 75 per cent, of the gross operating revenue of gas and electric corporations for legal investment purposes must be derived from its gas and electric business; and eliminates the previous requirement that not

more than 15 per cent of gross operating revenue may be derived from any one business other than supplying gas and electricity.

Another important feature of the new law authorizes the investment of savings bank funds in certain debenture bonds of telephone corporations heretofore not eligible for legal investment.

### Ohio

#### Hope Rates to East Ohio Raised

**W**HOLESALE gas rates to the East Ohio Gas Company by the Hope Natural Gas Company were recently increased by \$1,650,000 annually, but no immediate plans have been formulated by the Ohio company to pass the increase on to ultimate consumers.

The Federal Power Commission authorized the West Virginia company—one of East Ohio's suppliers—to collect temporarily under bond a new rate of 32 cents per one thousand cubic feet. This represents an increase of 2.75 cents.

East Ohio has contracts with 85 communities in Ohio which do not terminate until late 1950. A spokesman for the company said that no changes in price can

be made until new contracts are negotiated later this year.

Another of East Ohio's wholesale suppliers, Panhandle Eastern Pipe Line Company, recently applied to the FPC for an increase in its rate to East Ohio which, if granted, will add approximately \$1,000,000 annually to East Ohio's wholesale cost of gas.

An East Ohio official said all of these factors will be taken into consideration in determining new rates for domestic consumers when present contracts expire. He also said the company has been adding new business to such an extent that "undoubtedly" some of the increased costs will be offset by the additional volumes of gas that East Ohio customers will take this year.

### Rhode Island

#### Industrialists and Power Heads Meet

**M**ORE than 100 industrial plant executives attended a recent power conference in Providence, sponsored jointly by the Narragansett Electric Company, the Fall River Electric Com-

pany, the Mystic Power Company, and the Attleboro Steam & Electric Company.

Described as "highly successful," the conference highlighted the use of electricity by industry to increase production, reduce costs, and improve quality of output. The General Electric Company was a co-sponsor of the meet.

### South Carolina

#### Public Power Unit Can Be Sued

**A** FEDERAL judge has ruled that the South Carolina Public Service Authority, operator of the state-owned Santee-Cooper hydroelectric develop-

ment, can be sued in Federal district court without consent of the state.

The ruling came in a \$56,000 damage suit brought by the owner of two large plantations. The claimant maintained that the authority has permitted water

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to rise above the prescribed level, inundating portions of his property and providing breeding places for mosquitoes.

In its answer, the authority declared the Federal court did not have jurisdiction, since the authority is an agency of the state of South Carolina and that any

recovery would be from the funds of the state.

The state may not be sued without its consent, and such consent has not been given, the authority maintained. Attorneys for the plaintiff moved to strike out this portion of the answer.

### Texas

#### Utility Franchises Protected

THE state court of civil appeals has ruled that cities cannot throw out electric utilities holding franchises from the county in which they operate at least for ten years after the cities come into corporate existence.

In the ruling, the appeals court set

aside a ruling by a district judge which upheld the city of Mason's effort to make the West Texas Utilities Company remove its power lines.

The decision marked the first test of a legislative act in 1949, aimed at protecting utility companies from being removed by towns incorporated after the county commissioners granted franchises.

### Virginia

#### Cut in Rate to Co-ops

THE Virginia Electric & Power Company has offered a rate of 7.5 mills per kilowatt hour to 11 members of the Old Dominion Electric Cooperative—a cut of 2.5 mills. Now supplying the individual co-ops at a rate of one cent per kilowatt hour, on a 1-year basis, the company offered each a 5- to 10-year contract "on acceptance" at a rate of 7.5 mills. The new rate, the company said, would annually save the 42,000 customers of the co-ops an estimated \$564,000, compared with the Old Dominion rate estimates for 1953, its first proposed year of operation.

Old Dominion now has an application before the state corporation commission for permission to borrow \$14,320,000 from the Rural Electrification Administration. Proceeds of the loan would be used to consolidate the 11 smaller co-ops into an organization to be supplied with power from the projected Federal development at Buggs Island, Virginia-North Carolina, and from a steam plant which Old Dominion plans to build at Scottsville on the James river.

Last October, the company offered to

transmit Buggs Island power to the co-operatives over its lines at cost, plus a small wheeling charge, and to supply the balance of their power needs at 7.5 mills.

Buggs Island output, the company pointed out, will be available only at on-peak hours, when the plant is running at capacity. The earlier offer was to be effective when Federal power became available. At that time, it was thought the Buggs Island power would be available at less than 7.5 mills, but there were no takers of the offer.

In the latest offer to supply all power needed at 7.5 mills, the company said that new data filed by Old Dominion with the corporation commission indicated that Buggs Island rates, delivered to Virginia co-operatives, would be higher than 7.5 mills.

The super coöperative's estimates of its 1953 income needs from the sale of power are \$2,260,000, the company stated, adding that it would supply the same amount of power for only \$1,696,000.

This is the fourth time the private utility has offered to reduce its rates to coöperatives since late 1948.



## Progress of Regulation

### Income Taxes Not Allowed As Operating Expenses Of Telephone Partnership

A TELEPHONE company was allowed a rate increase by the Missouri commission, which found that without some increase the company would be unable to realize a fair return on its investment in plant. The rates proposed by the company were not acceptable because of the probability that they would yield an excessive return.

One point was sharply contested in the proceeding. It related to the utility's claim for an allowance in its operating expense account for state and Federal income taxes. Counsel for the utility argued that all such taxes should be borne by consumers since they are levied on utility property and utility income and are not the taxes which the stockholders and bondholders pay on their stock and bonds, or on dividends or interest received.

The commission disallowed these taxes

as operating expenses. The utility does business as a partnership which does not pay income tax but merely files an information return. The tax is assessed against the earnings of the partners as individuals.

A determination of the tax paid by the individual partners, the commission continued, would involve a consideration of the personal exemptions of the individuals and the various deductions permitted by the Revenue Department, which would have no place in a utility rate proceeding. To allow such taxes as operating expenses would be similar to allowing the taxes on dividends to stockholders of a utility corporation as corporate expenses.

The rates authorized would yield the company a return of 6.52 per cent on its rate base. *Re Atchison County Teleph. Co. (Case No. 11,760).*



### Sufficiency of Return Discussed and Unfinished Construction Excluded from Rate Base

THE supreme court of Vermont upheld an order of the Vermont commission granting a part, but not all, of an electric company's proposed rate increase. The return allowed by the commission was 5.65 per cent. The court found that the commission had made a thoughtful and comprehensive effort to arrive at a proper return and for that reason refused to interfere with the com-

mission's expert and informed judgment.

The principal criticism made by the electric company was that the return allowed was not sufficient to support and attract common stock capital. The court said that while this element is important in fixing rates, it is but one of many components for consideration. This factor was one in which the interest of the company was greater than that of the

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public as consumer. The fixing of just and reasonable rates involved the balancing of the investor and consumer interest.

Rate regulation, however, does not insure that the business shall produce net revenues, the court said. The commission was held to have properly found that the return established would afford the company ample ability to attract new capital and to enable it to compete for such new capital either in the form of debt or equity securities as may be most expedient.

In arriving at the average net investment in utility plant for the test period selected, the commission had excluded electric plant under construction. The court approved this action. The electric company charged interest during construction and this was capitalized and included in the ultimate plant account. Furthermore, the adopted rate base contained allowances for capitalization of materials used in construction and construction inventories on hand before they were used. No adjustment was made for

the revenues to be produced when the plant under construction would go into service. The court also pointed out that the unfinished construction was designed to replace existing plant not yet retired. For these reasons it held that to include unfinished construction in the rate base would result in a double return for the company.

In computing an appropriate rate base the commission had selected as its test year the most recent 12-month period for which data based on experience were available. The court ruled that this was proper. However, it would not assume that the sanction of the method employed in this case committed the Vermont commission to the same method in all future rate cases. As a matter of fact, a rigid application of that formula in all cases, without considering the various adjustments which might be called for by the particular circumstances, might, and probably would, eventually result in error. *Re Central Vermont Pub. Service Corp.* 71 A2d 576.



### Excess Profits Tax Allowed As an Operating Charge

THE supreme court of Ohio upheld a commission order setting aside rates prescribed by ordinance for electric service within the city of Cincinnati and substituting higher rates. The commission had established a return slightly below 6 per cent. The court considered this rate to be reasonable and based its finding on the proposition that public utilities should be entitled to a return approximating the legal rate of interest or the investment and interest rates generally prevailing in the locality.

The city insisted that the commission's findings as to the company's revenues were erroneous because of the absence of a bill analysis or customer classification. The court ruled that while such information would have been proper as an aid in estimating future revenues, it was not essential to an effective determination of the question. The commission had before it a breakdown of the various classifications showing anticipated revenues, as

well as tables showing the rates proposed. That the commission weighed the material available to it and came to an independent conclusion was indicated by the fact that the final rates fixed were less than those proposed by the company.

The court pointed out that electric rates which would be adequate in the early 1940's would not be so at a later time in the same decade. For example, wages and salaries generally increased very materially during these years as did the costs of materials, supplies, and commodities of all kinds. Although the use of electric current became greater, so did the cost of producing and distributing it.

The city contended that the commission wrongfully allowed Federal excess profits taxes as an operating expense. The general rule was said to be that validly imposed taxes of all kinds may be included in operating expenses of a public utility for rate-making purposes. It was the commission's duty to accord the

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company a fair return based on the undepreciated book cost of its properties. In arriving at this figure all legitimate taxes paid by the company out of its revenues were entitled to consideration in a determination of the percentage of return the company should receive.

The company's rate case expenses were also properly allowed by the commission as an operating charge for rate-making

purposes. The court recognized that where a utility successfully complains to the commission that rates established by a city ordinance are unfair and unjust, proper expenses incurred in the preparation and presentation of its side of the controversy may be included among operating expenses. *Cincinnati v. Public Utilities Commission et al.* 90 NE2d 681.



### Telephone Rate Increase Approved on Rehearing to Permit Maintenance of Financial Integrity

THE Kentucky commission approved a telephone company's application for a rate increase upon a rehearing ordered by the state court of appeals. At the first hearing about two years earlier the commission had found that rates in effect were fair and reasonable and denied the application. The lower court agreed with the commission, but the state court of appeals reversed the decision and sent the matter back to the commission for further consideration. The court described the controversy as one "aptly appropriate for the conference table."

After the conference was held, the commission reconsidered the case on the earlier record, together with the monthly and annual reports submitted by the company since the first hearing, and a capitalization statement.

In the first proceeding evidence as to income and expenses was based on estimates. Now, the commission said, "facts have supplanted estimates and we

know the actual revenues received and expenses incurred by the company under both the old rates and the rates proposed and in effect under bond since November 21, 1947." Because of the fact that the commission was now looking back and not looking ahead, no consideration was given the expectancies and estimates upon which the original decision was based.

The commission pointed out that while rates cannot be based on capital structure alone, this factor, together with associated interest and dividend requirements, should be considered. A utility has a right to ask that rates be sufficient to maintain its financial integrity.

The commission did not consider itself bound to any single formula or combination of formulas in its effort to determine the value of the utility for rate making, but said that any finding of a reasonable measure to test the end result was all that was required. *Re Lexington Teleph. Co.* (Case No. 1616).



### Construction Work in Progress Excluded and Cost of Money Determined

THE public utilities commission of the District of Columbia authorized the Chesapeake & Potomac Telephone Company to increase rates for service within the District. An increase was necessary to provide the company with a 6 per cent return. The new rates were intended to provide some margin for the

adverse effect of high level future construction costs on the company's rate base, future increases in operating costs, and other presently unknown factors which were not susceptible of precise measurement.

Various witnesses disagreed as to whether or not construction work in



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progress should be included in the rate base. In a previous rate case involving the company that item had been included. At that time, however, the commission understood that the company's system of accounts was to be modified to provide for the discontinuance of accruals for interest during construction. This change in procedure did not materialize. In view of this fact the commission held that, since interest during construction was accrued and added to the cost of plant placed in service, construction work in progress should not be included.

The commission considered cost of money as the primary factor in a rate of return. It concluded that it would not be proper to predicate the rate of return for the company on the cost of capital to the entire Bell telephone system. Such capital included a substantial amount of debt securities and preferred stock issued by certain operating companies of the Bell system directly to the public. No portion of the proceeds realized from the sale of such securities

could be invested in the facilities of the local company for local service.

The commission also pointed out that extreme care must be exercised in developing a rate of return on bases which differ from the conditions actually existing. Its decision must rest upon considerations most nearly approaching actuality.

The commission held that it would not be equitable to insist that the company be allowed only the "bare bones" cost of money which it would incur if it obtained its capital under the most favorable terms possible in the present-day market, particularly in the absence of conclusive proof that the cost of existing capital is unreasonably high.

The most equitable basis for determining the fair rate of return was said to be that which considered the present-day cost of capital invested in the company by the parent company. *Re Chesapeake & Potomac Teleph. Co. (PUC No. 1812/42, Formal Case No. 393, Order No. 3635).*



### Original Cost Considered Proper Rate Base and Labor Costs Analyzed

THE Wyoming commission denied an application for authority to increase natural gas rates on the ground that it could not accept the inflation of original cost figures. The company urged that it was entitled to have rates fixed at a level enabling it to earn a return upon the present fair value of its property. It used two methods to determine this value, both based on reproduction cost new less observed depreciation.

Using the so-called appraisal method, the company introduced evidence from which it estimated what it would cost to reproduce its utility properties. It then offered evidence under the chart or trended original cost method to indicate what the original cost would have been if 1947 prices had been paid for labor and materials throughout the entire period of piecemeal construction.

It had been the company's policy to

charge labor costs to operating expense rather than to its plant investment account. The figure used to compute reproduction cost of plant by the chart method did not include labor costs. The commission said that labor costs incident to construction are just as much a part of the capital investment of a gas utility as the material it uses in the construction of its entire plant. Failure to capitalize labor distorts investment, depreciation, and operating accounts. Furthermore, the commission held, it is improper and inequitable to include in a proposed rate base the cost of labor items which already have been charged to operating expense, as this procedure compels the consumer to pay more than once for such expenditures.

The commission believed that the reproduction cost studies presented by the company ignored its actual experience



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and development as a gas utility. It held that the evidence offered in support of the proposed rate base figures consisted of conjectures and that the proposed rate bases did not furnish a reliable yardstick for use in determining a fair return.

The commission pointed out that under rate-making authority delegated to it by the legislature, it is empowered to fix just and reasonable rates for public utilities and that the term "just and reasonable" is not absolute. It may consider cost or value, or both, and there is no constitutional limitation requiring it to base utility rates upon fair value. It stated that a proper rate base would be the original cost of properties less depreciation and depletion reserve requirements, plus a reasonable amount for working capital. A rate base determined in this

manner would be fair to both investors and consumers. Furthermore, the commission said, this procedure is practicable in that it eliminates huge engineering and accounting costs for preparing reproduction estimates, a recurring process contingent upon fluctuating economic conditions.

The commission, in denying the increase, pointed out that the company under existing rates had been able to pay a reasonable dividend to its investors, increase its surplus and investment account, and invest large sums of money in other companies, the return from which it had made no accounting to the commission. It had also shown a minimum net profit for income tax purposes. *Re Wyoming Gas Co. (1 & S Docket No. 9143).*



### Coal and Railroad Industries Fail to Block Natural Gas Expansion

THE Pennsylvania commission approved applications by gas companies contemplating the delivery of certain quantities of natural gas to distributing companies in order that they might have a supply available for use in the manufacture and delivery to retail customers of 520 BTU manufactured gas, except in certain communities where it was intended that straight natural gas having a heating value of approximately 104 BTU per cubic foot should be distributed. The Federal Power Commission had previously approved proposals for delivery of gas by pipeline in the Pennsylvania areas affected.

Opposition to approval was based mainly on the ground that the result would be harmful to the coal and railroad industries. The commission, with two commissioners dissenting, decided that the public interest as it affected the people of the commonwealth of Pennsylvania as a whole required this natural gas service. The commission said:

Anthracite, as well as bituminous coal, are basic fuels that contributed

greatly to making Pennsylvania an important industrial state. But these alone are not responsible. Oil and natural gas discoveries and their utilization have also contributed immeasurably, particularly in western Pennsylvania. Yet all those fuels, each playing its own part in developing industry, have been in competition with each other over the years and the citizens of the commonwealth have benefited.

It seems to us that a valid opposition to natural gas, whether it be used in the production of manufactured gas or distributed to the public in its natural form, would encompass evidence as to its effect on the over-all economy of the commonwealth. The UGI companies have shown that savings of several millions of dollars will be made by them in the five years ending in 1954.

On the other hand, it appears that the loss of anthracite coal markets during this period, based on the continued distribution of 520 BTU gas by the UGI companies would be small in

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relation to the savings in gas production costs. It appears, therefore, that the many people served by the UGI companies will benefit to a much greater degree than the expected adverse result to the anthracite industry

and the former should not be denied the advantages of lower cost of gas and a convenient type of fuel.

*Re Manufacturers Light & Heat Co. (Application Docket Nos. 74741, 74822, 74823, 74824, 74825, 74866).*



### Telephone Rate Increase Authorized After Adjustments in Depreciation and Operating Expenses

**T**HE New Jersey board authorized increased telephone rates to produce an estimated return of 6 per cent. Rates proposed by the company, which the board found would produce a return of 9.34 per cent, were disapproved.

Claims for operating expenses were adjusted in several instances. The charge for depreciation expense had been calculated by the company by applying a schedule of depreciation rates developed several years ago. By reason of the fact that these rates applied to some classes of plants would result in full recovery of investment prior to expiration of useful life and since the company had recently converted to dial, thereby changing the characteristics of major items of plant, the board's staff developed a schedule of depreciation rates for the different classes of telephone plant. The board adjusted the depreciation expense on that basis. A claim for the cost of extraordinary retirements, representing the retirement of switchboard equipment resulting from conversion to dial, according to the board, was not properly chargeable to operating expense but should be charged to depreciation reserve account.

Rate case expenses were required to be

amortized over a 5-year period instead of being allowed as part of operating expenses for a single year. Contributions to charity, although laudable, were held not to be chargeable to customers.

General office salaries and expenses were adjusted by deducting an amount advanced to one of the officers for a business trip and subsequently returned by him to the company. This refund of advanced traveling expenses was, in the opinion of the board, incorrectly treated by the company as nonoperating income.

The company had treated as nonoperating income such items of income as Western Union commissions, advertising commissions, and rentals from buildings. The board was of the opinion that this amount should be treated as operating revenue and included in miscellaneous revenue, particularly since related expenses were included in adjusted operating expenses.

An estimate of revenues from subscribers' stations was held to be too low because adequate recognition had not been given to revenues to be derived from new customers to be added to company lines.

*Re Farmers' Union Teleph. Co. (Docket No. 4649).*



### Need to Finance New Construction Outweighs Objectionable Capital Structure

**T**HE Michigan commission authorized Michigan Gas & Electric Company to file an amendment to its articles of incorporation and to issue and sell mortgage bonds, preferred stock, and common stock. The existing capital ratio of the utility was approximately 75 per cent

fixed-charge capital and 25 per cent equity capital. The commission commented:

This commission recognizes the inherent weakness of this capital structure and does not, as a matter of policy,

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approve of the same but realizes that it exists as a matter of historical development. A capital structure of not more than 60 per cent of fixed-charge capital and 40 per cent of equity capital more nearly approaches the capital structure, which this commission has in the past, and would in the future, approve.

The proposed financing plan, it was said, would more nearly meet the approval and sanction of the commission if it did not incorporate or contemplate the issuance or sale of preferred stock. The commission believed that all of the stock proposed to be issued should be common stock. However, in view of the fact that this financing plan involved an engineering and construction program designed to equip and enable the utility to serve natural gas throughout an important part of its territory and to a great

number of customers, the commission believed that the public interest would be best served by permitting this financing program to be completed although it was not entirely in accordance with the commission's announced policy and attitude toward such matters.

The commission warned that nothing in its authorization should ever be construed or intended as any commitment upon the commission or any future commission to authorize earnings which would be designed to maintain any price or value of the equity capital. The commission also admonished the company that any subsequent financing program should be designed toward a further broadening of the common stock base in its capital structure rather than the creation of any additional fixed-charge capital. *Re Michigan Gas & E. Corp. (D-1103).*



### Commission May Regulate Municipal Plant Rate Contract

THE Colorado commission denied a petition for rehearing of its order fixing rates for municipal water plant service to consumers outside corporate limits. The original order contained a statement that the commission had no jurisdiction over private contracts and that in this case it was not permitted to allow a rate based on a contract between water users and the town. The town claimed that the order was in this respect invalid. This contention was rejected.

The commission said that where a non-utility contracts to furnish service to an individual, the matter is one of contract over which it has no control. In this case, however, the town, by virtue of operating

outside its boundaries, was a public utility, and any rate contract between it and its customers was subject to regulation and change by the state utilities commission.

The commission pointed out that it had previously held that it could and should fix rates regardless of any contract between an individual and a public utility for specific rates. The fact that the contract setting the rates also gave a right of way was held to have no effect on this ruling. The contention that the commission must give some weight to the rates set forth in the contract was held to be without merit. *Lechleiter et al. v. Town of Olathe et al. (Case No. 4996, Decision No. 34197).*



### Other Important Rulings

A NATURAL gas company's certificate application was denied by the Federal Power Commission notwithstanding evidence of a substantial demand and

need for natural gas in communities which the company proposed to serve, where because of an agreement to provide an electric utility with gas to be used in

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its generating plant, the company was not free to offer gas on terms favorable to all classes of consumers. *Re Piedmont Nat. Gas Corp.* (Docket No. G-1105).

The California commission on an application for a temporary natural gas rate increase, accepted the reserve for depreciation as reflected by the company's books as competent and material evidence in proving actual depreciation, and said that if the book reserve did not truly reflect actual depreciation, the burden was upon the utility to show what was the true depreciation. *Re Southern California Gas Co.* (Application No. 30299, Decision No. 43675).

The Indiana commission authorized the establishment of message toll service from an exchange operated by the

Michigantown Coöperative Telephone Company to an exchange operated by the Indiana Bell Telephone Company upon a showing that free service had been rendered for several years in one direction while charges were made in the other direction, while the Indiana Bell Telephone Company was in a position to provide as many trunk lines as might be necessary to take care of toll service. *Re Michigantown Coöperative Teleph. Co.* (No. 21808).

The Virginia commission authorized a telephone rate increase to produce a net return of slightly less than 6 per cent, although one commissioner thought that a return of 5.5 per cent would be sufficient. *Ex parte Chesapeake & Potomac Teleph. Co. of Virginia* (Case No. 9626).

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## Re Uniform System of Accounts for Electric Corporations et al.

Cases Nos. 9187, et al.  
March 9, 1950

**P**ROCEEDING to determine proper treatment of pension cost of public utility; Commission policy stated.

*Expenses, § 49 — Pensions — Charge for past services.*

1. Pensions are wages and constitute a present benefit, and therefore upon the establishment of a pension plan, whether based on past or future services, or both, the entire charge becomes an operating expense, not an income deduction or a charge to surplus, p. 164.

*Expenses, § 49 — Pensions — Company obligation.*

2. A company claiming a deduction for pension charges as an operating expense must have irrevocably committed itself to the obligation; title must have passed to the beneficiaries, p. 164.

*Expenses, § 49 — Pensions — Reasonable charge.*

3. Pension charges in order to be allowed as an operating expense must be reasonable, p. 164.

*Expenses, § 49 — Pensions — Time when chargeable.*

4. Inclusion of pension charges in operating expenses should be made in the year when provisions should be made for it, although there may be instances in which the Commission should give its approval to amortizing payments over a longer period than the current year in which payment is made, p. 164.

*Labor, § 10 — Pensions — Voluntary plan.*

5. Where companies have undertaken to pay pensions, even under a voluntary plan under which the company may claim it has no legal liability, there exists a high moral responsibility and, as a practical matter, a voluntary plan of long standing cannot be terminated without destroying good labor relations or by compensating the employees in some other form, p. 164.

*Labor, § 10 — Pensions — Similarity to compensation.*

Discussion of change in social thinking in respect to pensions, with the result that pensions, instead of being regarded as a gratuity of the sovereign, are regarded as part of compensation of the employee, p. 164.

*Accounting, § 39 — Pensions.*

Excerpt from report of Committee on Accounting Procedure of the American Institute of Accountants, dealing with accounting for annuity costs based on past services, p. 164.

(ARKWRIGHT, Commissioner, dissents.)

## NEW YORK PUBLIC SERVICE COMMISSION

**APPEARANCES:** Lawrence E. Walsh, Counsel (by Sherman C. Ward, Assistant Counsel, and Samuel R. Madison, Principal Attorney), for the Public Service Commission; Herman E. Cooper, New York city, Counsel for Utility Workers Union (CIO); Gould & Wilkie (by M. S. Lockhart and L. F. Sillin, Jr.), New York city, Attorneys, for Central Hudson Gas and Electric Corporation; Nixon, Hargrave, Middleton & Devans (by Earl L. Dey), Rochester, Attorneys, for Rochester Gas and Electric Corporation; Harold V. Dixon, New York city, Attorney, for New York Telephone Company; Adrian C. Cassidy, New York city, Attorney, for New York Telephone Company; Lexow & Jenkins (by David H. Moses), Suffern, Attorneys, for Rockland Gas Company, Inc.; Charles L. Hulswit, Spring Valley, President, Rockland Gas Company, Inc.; Charles G. Blakeslee, New York city, Attorney, for Kings County Lighting Company; John C. Bruckmann, Mineola, General Attorney, for Long Island Lighting Company, Queens Borough Gas and Electric Company, Nassau and Suffolk Lighting Company, and Long Beach Gas Company; Charles G. Blakeslee, New York city, Attorney, for Long Island Lighting Company, Queens Borough Gas and Electric Company, Nassau and Suffolk Lighting Company, and Long Beach Gas Company; Wood & Wood (by Edward S. Wood), Gloversville, Attorneys, for Upstate Telephone Corporation of New York and Tri-State Associated Telephone Corporation; L. H. Meyer, Gloversville, Vice President and General Manager, Upstate Telephone Corpo-

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## RE UNIFORM SYSTEM OF ACCOUNTS

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EDDY, Commissioner: The problem of the accounting treatment of pensions is one of increasing importance. This Commission last passed directly on the problem in Case 11800 (1949) 78 PUR NS 386 involving the village of Lake Placid. The Utility Workers Union, CIO, requested this Commission to reconsider its previous attitude as expressed in that case, and for that reason this proceeding was brought dealing with all of the prescribed accounting systems for the various utilities under the jurisdiction of the Commission.

## NEW YORK PUBLIC SERVICE COMMISSION

It was announced at the hearing that tentatively the Commission, after having taken the briefs of the parties, would prepare proposed changes in its accounting regulations. Such changes are in the course of preparation, and will be considered at a future hearing.

[1-5] There is presently before the state legislature certain proposed amendments to the Public Service Law dealing with the problem. Since it does not presently seem possible to afford an adequate hearing on the proposed changes before the legislature adjourns, the Commission feels that a general statement of the principles by which this Commission will be guided should presently be made.

There has been throughout the last thirty years a very great change in the social thinking of this country in respect to pensions. At one time, as defined by the court of appeals (see [1935] 268 NY 228, 197 NE 260), pensions were regarded as a "gratuity of the sovereign." Gradually that concept has changed until today pensions are regarded not as a favor or a gift but as part of the compensation of the employee. We think there can be no better statement than that of the circuit court of appeals for the seventh circuit in the *Inland Steel Case* (1948) 70 F2d 247, 251: "... we are convinced and find that the term 'wages,' as used in § 9-A, must be construed to include emoluments of value, like pension and insurance benefits, which may accrue to employees out of their employment relationship. . . . Realistically viewed, this type of wage enhancement or increase, no less than any other, becomes an integral part of the entire wage structure, and the

character of the employee representative's interest in it, and the terms of its grant, is no different than in any other case where a change in the wage structure is effected."

By the same token, with the change in concept of the nature of a pension there has likewise been a change in the accounting concept. In November of 1948 and subsequent to our decision in the *Lake Placid Case*, *supra*, the Committee on Accounting Procedure of the American Institute of Accountants, dealing with accounting for annuity costs based on past services, said:

"1. When costs incurred under pension plans are based in part on services performed prior to the adoption of the plan, the problem arises whether that portion of the costs which are attributable to such services are applicable to the past or to the present and future periods and, accordingly, whether they should be charged to income. This bulletin deals with the accounting treatment of such costs arising out of past services when incurred under pension plans involving payments to outside agencies such as insurance companies and trustees.

"2. The committee has undertaken a statement on this subject at this time because of the trend toward expansion of pension plans to cover a wider and much larger group of employees, often at substantially increased costs, and in order to narrow the area of difference in the accounting treatment accorded in actual practice to annuity costs based on past services. Self-administered and informal plans which do not require payments to outside agencies are not specifically dealt with because of their

## RE UNIFORM SYSTEM OF ACCOUNTS

special features and lack of uniformity. The principles set forth herein, however, are generally applicable to those plans as well.

"3. Charges with respect to pension costs based on past services have often been made to surplus on the grounds that such payments are indirectly compensation for services and, since the services upon which the payments are computed were performed in the past, the compensation should not be permitted to affect any period or periods other than those in which the services involved were performed. In other cases all annuity costs based on past services have been charged to income in the period of the plan's inauguration as a current cost of originating the plan. In still other cases the position has been taken that a pension plan cannot bring the anticipated benefits in the future unless past as well as future services are given recognition and, accordingly, annuity costs based on past services have been spread over a period of present and future years. The last method is the one permitted under provisions of the Internal Revenue Code.<sup>1</sup>

"4. The committee believes that, even though the calculation is based on past services, costs of annuities based on such services are generally incurred in contemplation of present and future services, not necessarily of the individual affected but of the organization as a whole and, therefore, should be charged to the present and future periods benefited. This belief is based on the assumption that although the benefits flowing from pension plans are intangible, they are nevertheless

real. The element of past services is one of the important considerations of most pension plans and costs incurred on account of such services contribute to the benefits gained by the adoption of a plan. It is usually expected that such benefits will include better employee morale, the removal of superannuated employees from the payroll, and the attraction and retention of more desirable personnel, all of which should result in improved operations.

"5. The committee, accordingly, is of the opinion that:

"(a) Costs of annuities based on past services should be allocated to current and future periods; provided, however, that if they are not sufficiently material in amount to distort the results of operations in a single period, they may be absorbed in the current year.

"(b) Costs of annuities based on past services should not be charged to surplus.

"6. The committee does not intend that its recommendations shall require (a) a change in policy calling for charges to income rather than charges to reserves previously provided, or (b) that any recognition be given in the accounts of current or future periods to pension costs written off prior to the issuance of this bulletin."

We must, therefore, conclude not only as a matter of modern economic thinking, but as required by law and accepted practice, that pensions are wages and constitute a present benefit. Hence, we must expressly overrule the decision in the Lake Placid Case and hold that upon the establishment of a pension plan, whether based on past or future services, or both, the entire charge becomes an operating expense,

<sup>1</sup> See Internal Revenue Code, § 23(p)(1) (A).

## NEW YORK PUBLIC SERVICE COMMISSION

not an income deduction or a charge to surplus.

We think certain fundamental principles should be stated:

First: If we are to treat pensions as a part of wages, it is essential that the company claiming the deduction as an operating expense will have irrevocably committed itself to the obligation. Title must have passed to the beneficiaries.

Second: The pension plan must be a reasonable one, carry with it the assurance that the obligations which it purports to create can and will be fulfilled and meet the standards of this Commission. If pensions are wages, the matter of pensions is a matter of collective bargaining between the company and its men over which we have no control. However, in a rate proceeding where payments are excessive, while we cannot fix the compensation, we can disallow excessive payments for the purpose of fixing rates. It follows then if pensions are part of compensation, unreasonable payments should likewise not be allowed as a part of operating expenses.

Third: The inclusion in operating expenses should, of course, be made in the year when provisions should be made for it. The definition of the proper year is one of the most vexing problems presented in this matter and, except to state the general principle, this question will be left for further consideration. As in the case of many other operating expenses, there well may be instances in which the Commission should give its approval to amortizing payments over a longer period than the current year in which payment is made.

Fourth: We feel that where com-

panies have undertaken to pay pensions, even if the plan be styled a so-called voluntary plan under which the company may claim it has no legal liability, there exists a high moral responsibility and, as a practical matter, a voluntary plan of long standing cannot be terminated without destroying good labor relations or by compensating the employees in some other form. Where liabilities exist that should be made known by footnotes to the balance sheet or other appropriate entries.

It has been argued that the present provisions in the Uniform System for electric and gas companies are adequate to take care of the problems before us provided we interpret them as they are interpreted here in relation to past services. If there is any ambiguity in those provisions, they will in the future be interpreted in accordance with this memorandum until such time as the revision is complete.

With the exception of some portions of the bus industry the relations between labor and management in the utilities in this state are uniformly excellent. In general the workers in the utilities have a high standard of morale. In the utility field above all others a breakdown in good labor relations most seriously affects the public. As previously stated, we have no control over the process of collective bargaining, nor should we attempt to exercise any such control. We must, however, make our determinations in the regulation of utilities so as to remove any obstructions from the path of collective bargaining and to adopt those policies which promote good labor relations and, therefore, better service to the public. For this reason

## RE UNIFORM SYSTEM OF ACCOUNTS

alone, even if we were not compelled to make the determination by the modern legal concept of pensions, we should adopt the principles enunciated here.

I am in accord with Commissioner Arkwright to the extent that any increase in operating expenses tends toward an increase in rates. However, if we are correct in our view that pensions are a form of wages, and if, in the course of collective bargaining, the employees of a utility desire a pension rather than benefits in pay, the granting of pensions in any form will produce no different rates than those that would be produced by an equivalent change in wage scales.

ARKWRIGHT, Commissioner, dissenting: I do not oppose retirement or pension plans.

The members of this Commission, and of the prior Commission, were and are in complete accord as to their desirability and the good that necessarily flows from them.

The only point of difference, and the only problem presented, relates to the accumulation of funds to provide for services rendered in the past, by employees to a company and to whether present and future consumers should have to pay costs that previous consumers might have had to pay, if such plans were in effect.

The matter has been before this

Commission on several other occasions, and has been most carefully considered. In newly established pension plans, or in those already established where proper actuarial provisions are provided for to take care of retroactive service, the cost thereof must be met. A determination has now been made that these costs should not be paid by the utility or by contributions of the employees, but should be passed on to the public, present and future. This means that, throughout the state, where such plans may be set up, or are in being, that these costs must be passed on in the form of increased rates, to the users of gas, electricity, water, and transportation, whether railroad, bus, or freight.

The previous holding of the Commission in no way passed these costs on to the public. It in no way prevented the utility and its employees by agreement and by contributions among themselves from inaugurating and maintaining any kind of retirement or pension plan, whether with accumulated back costs or not. Thus an accumulation of what amounts to past debt, or expenses in connection therewith, was not passed on to current and prospective customers and riders, and their rates were thereby not increased.

In my opinion, the public interest is best served by not passing these particular costs on to the public.

NEW YORK SUPREME COURT, APPELLATE TERM,  
FIRST DEPARTMENT

Frances Cardone et al.

v.

Consolidated Edison Company of  
New York, Incorporated

— Misc —, 94 NYS2d 94  
October 27, 1949

**A** PPEAL from judgment awarding gas customer damages for  
alleged overcharge; reversed. For lower court decision, see  
(1949) 196 Misc 44, 89 NYS2d 845.

*Public utilities, § 129 — Rules and practices.*

1. A public utility has the right to prescribe and adopt methods, practices, rules, and regulations for the conduct of its business, provided they are reasonable, just, and not in contravention of law; and approval of the Commission in the first instance is not required to render them valid and effective, p. 170.

*Rates, § 7 — Jurisdiction — Commission or court.*

2. The reasonableness of rates, rules, or practices promulgated by a utility is a question to be determined in the first instance by the Commission, and preliminary resort to the Commission is required in the first instance and not to the courts, p. 170.

*Payment, § 5 — Jurisdiction of court — Estimated bills.*

3. The question whether a gas company has properly billed for service during a billing period in which a rate increase became effective, by applying a proration formula adopted by the company, is in the first instance a matter for decision by the Commission and not by the court, p. 170.

*Reparation, § 8 — Judicial authority — Conflicting powers of Commission.*

4. A court does not have jurisdiction of a claim by a gas customer for a refund based on a claim that a public utility has improperly applied a proration formula to determine the amount of gas consumed after the effective date of a rate increase, since this is a matter for the Commission, p. 170.

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APPEARANCES: Whitman, Ransom,  
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ley E. Williams, New York city, of  
counsel, for appellant; Lesser & Les-  
ser, New York city, Harry Lesser,

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spondents.

Before Pecora, Eder, and Hecht,  
JJ.



## CARDONE v. CONSOLIDATED EDISON CO.

EDER, J.: Appeals Nos. 35 and 36 involve the same question and are considered together. In each action plaintiff sued to recover alleged overcharge for gas service supplied by defendant. Defendant moved, in each action, to dismiss the complaint upon the grounds that (1) the court has not jurisdiction of the subject of the action, and (2) that the complaint, upon the face thereof, does not state facts sufficient to constitute a cause of action. The motion was denied, in each instance, and judgment rendered for plaintiffs, and defendant appeals from the orders and judgments thereon.

Various questions are discussed in the briefs, but the basic question, concerning jurisdiction, will be here considered, for, if sound, as it is believed to be, it follows that the actions must be dismissed, and it becomes unnecessary to discuss or determine the other points presented.

The plaintiffs are customers of the defendant using its gas service for which the defendant charged them the rate permitted by law. In proceedings duly instituted, the defendant applied for and obtained from the Public Service Commission permission to increase its rates and charges for gas service. The Commission authorized a temporary increase, effective on January 10, 1949, pending final determination of the application.

This authorized increase necessitated a reading of the meters in one day—on the effective date—in order to enable the defendant to make the new billings to its customers. This was an impossible task since the defendant supplies its gas service to its customers through 1,181,000 meters.

To meet this condition the defendant proposed what it has referred to as a proration formula, which it called to the attention of the Commission, in a letter under date of January 4, 1949, when transmitting to the Commission its revised gas rate schedule, as follows:

"For the purpose of prorating the amount of any regular bills for gas service extending over a period before and after the effective date of the revised rates, it is proposed to treat each regular monthly bill as covering tenths of a month and each regular bimonthly bill as covering twenty-tenths of a month. For example, a regular monthly bill based on a meter reading of January 13, 1949 (assuming the effective date of the revised date to be January 7, 1949) would be treated as having six days or two-tenths of the total consumption billed under the revised rates, while a regular bimonthly bill based on a meter reading of the same date would be treated as having one-tenth of the total consumption billed at the revised rate. This method of prorating regular bills is for the purpose of avoiding the excessively burdensome procedure that would be involved in prorating each regular bill on the basis of the actual number of days covered by such bill."

No formal approval of this proposed method or procedure suggested by the defendant of estimating or prorating the quantity of gas used by a consumer prior to or after January 10, 1949, when the increased rate became effective, was given by the Commission, but the defendant proceeded to adopt and act upon it in billing the plaintiffs.

## NEW YORK SUPREME COURT

The plaintiffs contend that this non-approved method and practice has resulted in an excessive charge to them and constitutes an arbitrary estimate or apportionment of gas consumed prior to and after January 9, 1949, is illegal and unauthorized, entitling plaintiffs to recover back the alleged overcharge.

[1] The defendant contends that it had the legal right to adopt and employ the method and practice of proration, as it did, is properly conducting and operating its business, and that approval of the Commission at the outset, as to this course of procedure was unnecessary; that if the propriety of this method or practice was to be challenged, the sole forum for that purpose was the Public Service Commission, in the first instance, and not the courts, and that the Commission had exclusive jurisdiction over the subject matter. On the other hand, the plaintiffs contend that their proper remedy is to seek redress in the courts as they have done, by action to recover the alleged overcharge.

I find nothing in the Public Service Law which prohibits the defendant from prescribing methods, practices, and regulations required for the proper conduct of its business and found necessary for its efficient administration; nor do I find any provision in said statute which requires the approval of the Commission, in the first instance, to render such methods, practices, and regulations valid and effective.

In the absence of statutory or judicial prohibition a public utility has the right to prescribe and adopt methods, practices, rules, and regulations for the conduct of its business pro-

vided they are reasonable, just, and not in contravention of law. 51 CJ p 7, § 14; 43 Amer Juris, p 597, § 38, and cases there cited.

Section 66, subd 5, of the Public Service Law, authorizes the Commission to examine and keep itself informed as to the methods, practices, and regulations of public utilities, and provides that whenever the Commission shall be of opinion that the acts or regulations of a public utility are unjust, unreasonable, unjustly discriminatory, or unduly preferential or in anywise in violation of any provision of law, the Commission is authorized to determine the matter and prescribe the just and reasonable acts and regulations to be done and observed.

Thus, in the first instance, the defendant, as a public utility, possesses the right to prescribe methods, practices, and regulations for the conduct of its business, and the reasonableness or justness thereof is subject to review and correction by the Commission upon complaint or upon its own motion. Section 66, subd 5, Public Service Law.

The plaintiffs claim that the method and practice adopted and employed by the defendant, i. e., the use of the proration formula, is unjust and results in what is termed an arbitrary apportionment, and that this method and practice are wrong. In sum, that the method and practice are unreasonable and unjust.

[2-4] Assuming, arguendo, there is merit to this contention of the plaintiffs, it appears to be well-established law that the reasonableness of rates, rules, or practices, promulgated by a utility, like defendant, is a question to

# CARDONE v. CONSOLIDATED EDISON CO.

be determined in the first instance by the Public Service Commission; this is a rule of primary administrative jurisdiction, and in such cases preliminary resort to the Commission is required in the first instance, and not to the courts. *Hewitt v. New York, N. H. & H. R. Co.* (1940) 284 NY 117, 124, 29 NE2d 641, 644; *Ten Ten Lincoln Place v. Consolidated Edison Co.* (1947) 190 Misc 174, 69 PUR NS 108, 73 NYS2d 2, affirmed (1948) 273 App Div 903, 73 PUR NS 156, 77 NYS2d 168, leave to appeal denied (1948) 298 NY 937, 80 NE2d 547; *Leitner v. New York Teleph. Co.* (1938) 277 NY 180, 189, 24 PUR NS 289, 13 NE2d 763, 766; *Croyden Syndicate v. Consolidated Edison Co.* (1947) — Misc —, 69 PUR NS 103, 72 NYS2d 846, 848, 849; *Leighton v. New York Teleph. Co.* (1948) — Misc —, 84 NYS2d 369, 370; see, also, *Pennsylvania R. Co.* (1948) — Misc —, 84 NYS2d (1915) 237 US 121, 131, 132, 59 L ed 867, 35 S Ct 484.

In the *Pennsylvania R. Co. Case*, *supra*, 237 US at pp. 131, 132, 35 S Ct at pp. 487, 488, it is pointed out that until the administrative body has determined the practice to be improper no court has jurisdiction of a suit

to recover damages occasioned by its enforcement. In the *Leighton Case*, *supra*, the court makes the following statement, supported by citation of authority, 84 NYS2d at p. 370.

"The authorities clearly hold that in situations of the kind for which regulatory bodies are particularly and peculiarly constituted, no actions will lie for damages without a prior decision by such regulatory body. . . . In other words, where the reasonableness of a practice is challenged, primary resort must first be had before the Commission, which is an expert body duly constituted to pass upon such problems."

In the light of the views herein expressed, and the authorities referred to, the ultimate conclusion is reached that the motions to dismiss the complaint in each action on the ground that the court was without jurisdiction of the subject of the action, should have been granted, and that it was error to deny the same.

Judgments and orders appealed from reversed, with \$10 costs in each case, motions to dismiss granted, and complaints dismissed, with costs in each case.

All concur.

State of Iowa et al.

v.

Federal Power Commission (First Iowa  
Hydro-Electric Cooperative, Intervener)

No. 13882

178 F2d 421

December 28, 1949; rehearing denied January 20, 1950

**P**ETITION to review orders of Federal Power Commission  
granting power project license; denied.

*Water, § 20.3 — Federal license for power project — Compliance with state requirements.*

1. The Federal Power Commission, in passing upon an application for a hydroelectric power project license, need not consider whether the applicant can comply with applicable state laws, if any, relating to the proposed project and the business in which the applicant proposes to engage, although it may consider such question, p. 178.

*Appeal and review, § 28.1 — Federal Power Commission order — Grant of hydroelectric power project license.*

2. A court reviewing an order of the Federal Power Commission granting a hydroelectric power project license may not retry the matter, substitute its judgment for that of the Commission as to doubtful or debatable questions of fact, or reverse the order because the Commission rejected views of the state as to what inferences should be drawn from the evidence, since the Commission is the agency which weighs the relevance of factual data, p. 179.

*Water, § 5 — Jurisdiction of Federal Power Commission — Hydroelectric project.*

3. The Federal Power Commission has broad discretion in dealing with the question of economic feasibility of proposed hydroelectric projects and the soundness of proposed plans for financing their construction, p. 179.

*Appeal and review, § 28.1 — Federal Power Commission order — Power project license.*

4. A court reviewing an order granting a power project license does not have the right to vacate the order solely because it does not agree with the Commission with respect to the economic feasibility of the project and the soundness of the proposed plan of financing construction, p. 179.

*Appeal and review, § 54 — Grounds for reversal — Federal license for power project — Protection of wild life.*

5. Defects, if any, in power project license proceedings before the Federal Power Commission relative to the protection of wild life resources may

## IOWA v. FEDERAL POWER COMMISSION

not be regarded as sufficiently vital or prejudicial to justify vacation of an order granting the license, p. 180.

**APPEARANCES:** Neill Garrett, Special Assistant Attorney General of Iowa (Robert L. Larson, Attorney General of Iowa, and Robert Brooke were with him on the brief), for petitioners; Willard W. Gatchell, Assistant General Counsel, Federal Power Commission, Washington, D. C. (Bradford Ross, General Counsel, Federal Power Commission, Louis W. McKernan and John C. Mason, Washington, D. C., were with him on the brief), for respondent; Vernon L. Wilkinson, Washington, D. C. (Andrew G. Haley, James A. McKenna, Jr., and David W. Robinson, Jr., Washington, D. C. were with him on the brief), for intervener-respondent.

Before Sanborn, Johnsen, and Collet, Circuit Judges.

**SANBORN, Circuit Judge:** The petitioners (who will be referred to as "the State of Iowa") have, pursuant to § 313(b) of the Federal Power Act, 49 Stat 838, 16 USCA § 791a et seq., asked this court to review and set aside orders of the Federal Power Commission granting to the First Iowa Hydro-Electric Cooperative (hereinafter referred to as "the applicant") a license to construct a hydroelectric project in the Cedar river, which flows through Iowa. The applicant is a coöperative association, consisting of a group of seven individuals, organized under the laws of Iowa.

The project calls for an earth dam and dike across the Cedar river at Salisbury Bridge near Moscow, Iowa, about 21 miles above the junction of

that river with the Iowa river and about 49 miles above the confluence of the Iowa river with the Mississippi river, creating a reservoir with an area of about 11,000 acres; a spillway section integral with the dam; a diversion canal approximately 8.5 miles long; a secondary dam and reservoir on Mad creek of about 920 acres; a small reservoir or forebay of approximately 160 acres created by a dam across Geneva creek overlooking the Mississippi river; a power plant consisting of four units with about 50,000 kilowatt capacity operating under a head of approximately 103 feet, with two units having reversible pumping features; and a tailrace 8,800 feet long parallel to the Mississippi river with a discharge into the pool below Navigation Dam No. 16 on that river. The proposed project contemplates the diversion of virtually all of the water from the Cedar river at Moscow.

Before discussing the contentions of the petitioners, it is necessary to describe the proceedings upon which the orders under review are based. The applicant, on January 29, 1940, pursuant to § 23(b) of the Federal Power Act, 16 USCA § 817, filed with the Federal Power Commission a declaration of intention to construct and operate a dam, reservoir, and hydroelectric power plant on the Cedar river near Moscow, Iowa, without diverting the waters of the river. On April 2, 1941, the applicant supplemented its declaration of intention by filing an application for a license, under the Federal Power Act, to construct an enlarged project substantially like the

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one for which a license was ultimately granted. This application was treated by the applicant and the Commission as a supplement to the original declaration of intention.

On June 3, 1941, the Commission found that the Cedar and Iowa rivers are navigable waters of the United States; that the proposed diversion of water from the Cedar river would substantially affect the flow and navigable capacity of the Iowa river; that the operation of the proposed power project would cause fluctuations in the flow and navigable capacity of the Mississippi river at Muscatine, Iowa; that the interests of interstate commerce would be affected; and that a license for the project was required under the provisions of the Federal Power Act. 2 FPC 958.

On August 11, 1941, the applicant filed with the Commission its application for a license to construct the project. On November 4, 1941, the State of Iowa was granted leave to intervene in opposition to the granting of a license. After extended hearings, at which testimony was taken, the Commission, on January 29, 1944, rendered an opinion, in which it stated that "The present plans call for a practical and reasonably adequate development to utilize the head and water available, create a large storage reservoir, and make available for recreational purposes a considerable area now unsuitable for such use, all at a cost which does not appear to be unreasonable." 4 FPC 27, 29, 52 PUR NS 82, 84. The Commission, however, concluded that the application should be dismissed because of the contention of the State of Iowa that § 9(b) of the act, 16 USCA § 802

(b) required the applicant for a license to submit "satisfactory evidence that the applicant has complied with the requirements of the laws of the state . . ."; that provisions of Chap 363 of the Code of Iowa 1939, ICA § 469.1 et seq, required a permit from the state executive council of Iowa for the construction of the project, and that the applicant had produced no evidence that it had such a permit. The applicant petitioned the United States Court of Appeals for the District of Columbia for a review of the Commission's order of dismissal. That court affirmed the order. *First Iowa Hydro-Electric Cooperative v. Federal Power Commission (State of Iowa, Intervener)* (1945) 80 US App DC 211, 60 PUR NS 343, 151 F2d 20. The Supreme Court granted certiorari, and reversed with directions to remand the case to the Federal Power Commission for further proceedings in conformity with the opinion. (1946) 328 US 152, 183, 90 L ed 1143, 63 PUR NS 193, 66 S Ct 906.

Following the remand, the State of Iowa, on June 28, 1946, petitioned the Commission to reopen the case for the taking of further evidence, and for the presentation and consideration of pertinent questions of law and fact. In its petition the state asserted that the Commission, under the Federal Power Act, lacked jurisdiction to license the proposed project because: (1) the Cedar river is a nonnavigable river and had been so declared by Congress; (2) the ex parte findings of the Commission of June 3, 1941, were made without notice to the State of Iowa, its political subdivisions or interested citizens; (3) the assumption by the Commission of jurisdiction to conduct fur-



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ther proceedings would require the taking of further evidence with respect to compliance by the applicant with § 9(b) of the Federal Power Act, the Rules of Practice and Regulations of the Commission, and the laws of Iowa relative to the bed and banks of the Cedar river and the appropriation, diversion, and use of the water of the river for power purposes, and with respect to the right of the applicant to engage in the business of developing, transmitting, and distributing power. The State of Iowa also asserted that the Commission was required to conduct further proceedings relative to the plan of financing the cost of the project and the project's soundness, feasibility, and practicability.

On August 6, 1946, 5 FPC 682, the Commission entered an order reopening the record, but only for a further showing as to the design and economic feasibility of the project. The State of Iowa, on August 26, 1946, again petitioned the Commission to reconsider the issue of the Commission's jurisdiction. This petition was denied on September 24, 1946, 5 FPC 216, 66 PUR NS 71. The trial examiner, who had been appointed by the Commission to conduct the hearings, held the further hearing provided for in the Commission's order of August 6, 1946, *supra*. The issues were confined to (1) the design of the Cedar river dam; (2) the design of the canal; (3) the design of the Geneva creek dam and power house section; (4) the economic feasibility of the project; and (5) the applicant's plans for financing the project. At the hearing, the State of Iowa made an offer of evidence rel-

ative to the issue of jurisdiction, which the trial examiner rejected.

From the evidence adduced at the hearing, the trial examiner found that the applicant's plan of financing provides for the sale of 40-year 4 per cent revenue bonds to finance the entire cost of the project; that the project could be financed by the issuance of such bonds, amortized over a 30-year period, if the applicant had binding contracts for the sale of electric energy for a period of about ten years, with sufficient operating revenues assured to cover the estimated cost of operation, maintenance, reserves, and 133 per cent of the debt service; but that the applicant had no firm contracts at all and no such assurance of revenues, and no firm commitments for financing. The trial examiner also found that:

"This Commission has heretofore held, in the matter of Gasconade River Power Company, Project No. 934, decided October 6, 1937, that a proposal to issue bonds to cover the *entire* cost of construction and financing of a project is not in harmony with sound principles of finance. (1 FPC 424 at 429.)

"The reasonably anticipated cost of the proposed project, together with necessary working capital to meet a possible deficiency of available water in the first year of operation, is now \$23,000,000.

"The applicant has not, up to the present time, shown the proposed project to be economically feasible with present high construction costs. Neither has it shown any firm com-

## UNITED STATES COURT OF APPEALS

mitments for the financing of the project or for the sale of the energy to be generated. Furthermore, it has not shown what facilities, if any, will be used to transmit such energy to prospective consumers. Although the application states a proposal that transmission lines should be constructed by a transmission cooperative, as a separate project, no evidence of the existence of either transmission cooperative or project for transmission lines has been offered.

"The issuance of a license is not justified by the record as it now stands."

The State of Iowa excepted to the report of the trial examiner upon the ground that his figure of \$23,000,000 as the cost of the project was too low, and that, even if the cost did not exceed that amount, the project would operate at an annual deficit of about \$850,000; and that the evidence conclusively showed that the project was not economically feasible.

After oral argument before the Commission on exceptions to the report of its trial examiner, it entered an order on December 19, 1947, 6 FPC 227, 233, 73 PUR NS 85, 90, authorizing the issuance of the license to the applicant, subject to compliance with certain conditions, among which were the approval by the Chief of En-

gineers and the Secretary of the Army of the project plans in accordance with § 4(e) of the Federal Power Act, 16 USCA § 797(e), and the submission of "satisfactory evidence of commitments to finance construction of the project."

An application for rehearing filed with the Commission by the State of Iowa on January 19, 1948, was dismissed by the Commission on January 30, 1948, on the ground that its order of December 19, 1947, *supra* was an intermediate, and not a final, order.

On August 31, 1948, the applicant wrote the secretary of the Commission, stating that the Chief of Engineers and the Secretary of the Army had approved the project plans, and that, in satisfaction of the proviso that the applicant submit satisfactory evidence of commitments to finance construction of the project, the applicant enclosed a letter of August 31, 1948, from William J. Neal, Acting Administrator of the Rural Electrification Administration, relative to the need and market for the power to be generated by the project,<sup>1</sup> and a letter, dated August 30, 1948, from A. L. McDougal, Jr., President of McDougal and Condon, Incorporated, indicating that that firm would proceed to complete the financing program as soon as

their negotiations with suppliers of energy and approves or rejects wholesale power contracts. "Rural electric loads have increased greatly in the past few years and are expected to continue growing in the future. This is especially true in the area surrounding the proposed hydro development, load data for which have been made available to you. It is our opinion that a market for the sale of power to the REA cooperatives in the area exists and will exist in the future if energy is made available to our borrowers at sufficiently low cost.

"Sincerely,  
"/s/ William J. Neal,  
"Acting Administrator."

<sup>1</sup> "Rural Electrification Administration.  
"Office of the Administrator.  
"Washington.

"August 31, 1948.

"First Iowa Hydro-Electric Cooperative  
"Attention: Mr. H. J. Strong  
"1011 East High Street  
"Davenport, Iowa.

"Gentlemen:

"This is in response to your request that we comment upon the possibilities of your supplying power to REA cooperatives in the area of your proposed hydroelectric development. As you know, the REA does not purchase electricity for its borrowers, but assists them in

## IOWA v. FEDERAL POWER COMMISSION

the license for the project was issued by the Commission.<sup>2</sup>

On September 3, 1948, the State of Iowa wrote a letter to the Commission, asserting that the letter of McDougal and Condon, of Chicago, contained no commitment of any kind; that the letter was not evidence of any plan of financing, and was not binding upon its writer; and that the letter of William J. Neal was a mere expression of opinion.

On September 8, 1948, the Commission entered an order authorizing the issuance of the license, upon the usual conditions. The chairman of the Commission dissented on the ground that the Commission's regulations governing applications for major project licenses required, among other things, a showing of the proposed use or market for the power to be developed and a statement or explanation of the proposed method of financing; and that no specific, definite, or satisfactory information on those subjects had been submitted by the applicant.

The State of Iowa, on October 6, 1948, filed a petition for rehearing with respect to the orders of September 8, 1948, and December 19, 1947, 6 FPC 227, 73 PUR NS 85, and of

all other adverse orders, findings, and rulings of the Commission in the case. The state again in its petition challenged the jurisdiction of the Commission to grant the license, and asserted that the Commission had not complied with § 9(b) of the act by requiring the applicant to produce satisfactory evidence that it had complied with the requirements of the applicable laws of Iowa. The state also asserted, in effect, that there was no adequate evidentiary basis for concluding that the project was economically feasible or that any sound plan for financing existed. The Commission denied the petition of the state for a rehearing, and the state has now petitioned this court to review and reverse the orders of the Commission granting the applicant a license.

The first question which the State of Iowa seeks to raise is that of the jurisdiction of the Commission to authorize the proposed project. That question we must decline to consider or discuss, because of the opinion of the Supreme Court in *First Iowa Hydro-Electric Cooperative v. Federal Power Commission* (1946) 328 US 152, in which the court said, at p. 163, 90 L ed 1143, 63 PUR NS

<sup>2</sup> "McDougal and Condon, Incorporated.  
"208 South La Salle Street, Chicago 4,  
"Illinois.

"August 30, 1948.

"First Iowa Hydro-Electric Co-operative  
"1011 East High Street

"Davenport, Iowa.

"Attention: Mr. H. J. Strong

"Gentlemen:

"The primary purpose of this letter is to enable you to meet the requirements of the Federal Power Commission under its order of December 19, 1947 (Project No. 1853) that your corporation submit satisfactory evidence of commitments to finance the construction of the project.

As you know with our consulting engineers, and your Co-operative, we have been engaging in negotiations with the Rural Electrification

Administration to determine that administration's attitude toward the use of all the capacity and energy to be available at the project for a federation of Rural Electrification Administration Co-operatives, and we have satisfied ourselves that there will be a market for all of this energy and capacity. Accordingly, we feel that the obligations which your corporation can issue for construction purposes will be marketable.

"When the license for the project shall have been issued by the Federal Power Commission, we will be glad to proceed with the completion of your financing program.

"Yours very truly,

"McDougal and Condon,

"Incorporated.

"By /s/ A. L. McDougal, Jr.,  
"President."

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193, 198, 66 S Ct 906, 911: "The project is clearly within the jurisdiction of the Commission under the Federal Power Act." In view of that plain language, it would be improper for this court to rule that the Supreme Court had not passed upon the question of the Commission's jurisdiction over the proposed project.

[1] We shall next consider the contention that the Commission, in disregard of § 9(b) of the Federal Power Act, failed and refused to give consideration and effect to the requirements of certain laws of the State of Iowa, namely, (1) the provisions of Chap 363 of the Code of Iowa 1939, now Chap 469, Code of Iowa 1946, ICA, requiring a state permit for the building of a dam in a meandered stream; (2) the provision in § 7796 of the Code of Iowa 1939, now § 469.30, Code of Iowa 1946, ICA, requiring a permit from the state highway commission where a dam affects public highways; (3) Chap 246 of the Laws of the 52d General Assembly of Iowa 1947, ICA, § 469A.1 et seq., requiring an applicant such as the one in this case to secure from the executive council of Iowa a certificate of convenience and necessity to engage in business in Iowa; and (4) Chap 383 of the Code of Iowa 1939, now Chap 489, Code of Iowa 1946, ICA, requiring a state franchise for the erection, maintenance, or operation of transmission lines.

We think that the decision of the Supreme Court in the First Iowa Hydro-Electric Cooperative Case, *supra*, disposes of this contention. As we read that opinion, it holds that § 9 (b) of the act does not require the Commission to compel the applicant

to produce evidence that it has complied with all of the applicable laws of Iowa before a license may be granted. Speaking of § 9(b) of the act, the Supreme Court said at p. 177 of 328 US, at p. 206 of 63 PUR NS, at p. 918 of 66 S Ct: "It [§ 9(b)] does not itself require compliance with any state laws. Its reference to state laws is by way of suggestion to the Federal Power Commission of subjects as to which the Commission may wish some proof submitted to it of the applicant's progress. The evidence required is described merely as that which shall be 'satisfactory' to the Commission. The need for compliance with applicable state laws, if any, arises not from this Federal statute but from the effectiveness of the state statutes themselves."

The court also said at p. 181 of 328 US, at p. 208 of 63 PUR NS, at p. 920 of 66 S Ct: "The detailed provisions of the act providing for the Federal plan of regulation leave no room or need for conflicting state controls. . . ."

We gather from the opinion of the Supreme Court that, while the Federal Power Commission may properly concern itself with the question whether an applicant for a license can comply with applicable state laws, if any, relating to the proposed project and the business in which the applicant proposes to engage, the Commission is not compelled to do so, but may license the project and let the licensee take his chances of being able to comply with the applicable state laws, or such of them as have not been superseded by the Federal Power Act. We think that the challenged orders of the Commission may not be invalidated by this

## IOWA v. FEDERAL POWER COMMISSION

court because of the asserted noncompliance by the Commission with § 9 (b) of the act.

That brings us to the questions of the alleged infeasibility of the project and of the asserted failure of the applicant to show any sound plan for financing its cost.

[2-4] It is certain that this court may not retry the controversy, substitute its judgment for that of the Commission as to any doubtful or debatable questions of fact, or reverse the challenged orders because the Commission has rejected the views of the State of Iowa as to what inferences should be drawn from the evidence. The Commission "is the agency which weighs the relevance of factual data." See *National Labor Relations Board v. Stowe Spinning Co.* (1949) 336 US 226, 231, 93 L ed 638, 69 S Ct 541, 545.<sup>3</sup> The Commission, which presumably consists of a body of experts, has, after an investigation and extensive hearings, concluded, from the evidence adduced, that there will be an adequate market for the electric power produced by this hydroelectric project, at prices sufficient to insure successful operation; that the project is in the public interest; and that the entire cost of acquisition and construction can be financed by the sale

to the public of 40-year 4 per cent revenue bonds.

We fail to find in the act itself any express prohibition against the issuance of a license to an applicant who is not financially responsible or to one who has no firm or enforceable commitments for the sale of power or for the financing of the cost of the proposed project. While it reasonably may be thought that Congress did not intend that licenses should be issued to applicants whose securities, issued to finance a project of doubtful feasibility, would be likely to work a fraud upon purchasers, Congress rather obviously left the Commission a broad discretion in dealing with the questions of economic feasibility of a project and the soundness of proposed plans for financing its construction.

It is true, as the State of Iowa asserts, that in 1937, in *Re Gasconade River Power Co.* (1937) 1 FPC 424, the Commission condemned the financing of the entire cost of such a project by the issuance and sale of bonds. In that case, the Commission said, at p. 428 of 1 FPC: ". . . It is this type of financing which has in the past been so largely responsible for the misfortunes of investors in public utility securities. Even if there were no other obstacles to the grant-

<sup>3</sup> See and compare, also, *Mississippi Valley Barge Line Co. v. United States* (1934) 292 US 282, 286, 78 L ed 1260, 4 PUR NS 211, 54 S Ct 692; *Rochester Teleph. Corp. v. United States* (1939) 307 US 125, 146, 83 L ed 1147, 28 PUR NS 78, 59 S Ct 754; *International Assn. of Machinists v. National Labor Relations Board* (1940) 311 US 72, 82, 85 L ed 50, 61 S Ct 83; *National Labor Relations Board v. Link-Belt Co.* (1941) 311 US 584, 597-599, 85 L ed 368, 61 S Ct 358; *Gray v. Powell* (1941) 314 US 402, 412, 86 L ed 301, 62 S Ct 326; *National Labor Relations Board v. Nevada Consol. Copper Corp.* (1942) 316 US 105, 86 L ed 1305, 62 S Ct 960; *Virginia*

*Electric & P. Co. v. National Labor Relations Board* (1943) 319 US 533, 542, 87 L ed 1568, 63 S Ct 1214; *Dobson v. Commissioner of Internal Revenue* (1943) 320 US 489, 501, 88 L ed 248, 64 S Ct 239; *National Labor Relations Board v. Pittsburgh Steamship Co.* (1949) 337 US 656, 659, 93 L ed 1602, 69 S Ct 1283; *Pittsburgh Plate Glass Co. v. National Labor Relations Board* (1940) 113 F2d 698, 701, affirmed (1941) 313 US 146, 85 L ed 1251, 61 S Ct 908; *National Labor Relations Board v. Winona Knitting Mills* (1947) 163 F2d 156, 160; *Donnelly Garment Co. v. National Labor Relations Board* (1948) 165 F2d 940.



## UNITED STATES COURT OF APPEALS

ing of a license for this project, this Commission would not willingly sanction or permit such a financial plan."

While we may entertain the same views as those expressed by the Federal Power Commission in the Gasconade Case, *supra*, and by the trial examiner, the chairman of the Commission, and the State of Iowa in this case with respect to the economic feasibility of the project and the soundness of the proposed plan of financing its construction, that would not, in our opinion, give us the right to vacate the orders of the Commission granting the license. If this license has been improvidently granted, as the State of Iowa insists, whatever stigma may subsequently attach to its issuance or to the execution of the questionable plan for financing the cost of the project will have to be borne by the Commission alone. It is to be remembered that, within the limits of the jurisdiction conferred upon it, the power of a court or an administrative agency to decide questions is not confined to deciding them correctly. *Pittsburgh Plate Glass Co. v. National Labor Relations Board* (1940) 113 F2d 698, 701, affirmed (1941) 313 US 146, 85 L ed 1251, 61 S Ct 908.

[5] The contention of the State of Iowa that the challenged orders are invalid because of the alleged failure of the Commission to give adequate consideration to the effect of the project upon wildlife resources, as required by the Act of August 14, 1946, amending

the Act to Promote Conservation of Wildlife, Fish, and Game, and for Other Purposes, approved March 10, 1934, 60 Stat 1080, 16 USCA §§ 661-665, 666-666c, is, we think, without substantial merit. One of the conditions of the license is that "The licensee shall construct, maintain, and operate such fish protective devices and shall comply with such reasonable conditions in the interest of fish life as may be hereafter prescribed upon the recommendation of the Secretary of the Interior." The Commission in its brief points out that, in the hearings held prior to the enactment of the Act of August 14, 1946, the Iowa Conservation Commission, as intervenor, appeared and produced evidence "with regard to fish life in the area and the probable effect of the project thereon." Apparently, the views of the State Conservation Commission were received and considered by the Federal Power Commission. Moreover, under the terms of the license, the applicant may still be required to do whatever may be reasonable for the protection of fish life. The defects, if any, in the Commission's proceedings relative to the protection of wildlife resources could not, in our opinion, be regarded as sufficiently vital or prejudicial to justify a vacation of the orders under review.

Our conclusion is that the petition of the State of Iowa to set aside the orders of the Federal Power Commission must be denied. It is so ordered.



NEBRASKA STATE RAILWAY COMMISSION

## Re Paxton Telephone Exchange

Application No. 17860  
November 18, 1949

**A**PPPLICATION of telephone company for rate increase; rates approved on temporary basis.

*Rates, § 130 — Adequacy of service — Consideration on increase application.*

1. An important consideration on a hearing with reference to proposed telephone rate increases is the kind of service being provided at the present rates, p. 183.

*Rates, § 131 — Telephone rate increase — Provision for service improvement.*

2. The Commission, on awarding a rate increase to a telephone company whose past service record has been spotty, should require improved service which will meet the standards and definitions of adequate commercial service without frequent failures, p. 183.

*Return, § 43 — Increase in rate to further prevent loss — Inadequacy of service.*

3. A telephone company should be allowed a rate increase where its operations over the past year have resulted in a substantial net loss, notwithstanding the fact that at the present time reasonably adequate service does not exist, p. 183.

**APPEARANCES:** Robert B. Crosby, Attorney, North Platte, for the applicant; George B. Hastings, Attorney, Grant, for the protestants; Keith W. Vogt, Chief Accountant, and Hugh W. Cargo, Chief Engineer, for the Commission.

**By the COMMISSION:** This matter had its inception in an application filed with the Commission on July 6, 1949, which was signed by Mr. Elmer J. Chrisp who is owner of the Paxton Telephone Exchange.

Applicant is unincorporated with its principal place of business in Paxton, Keith county, Nebraska. This telephone exchange is a wire common carrier under the laws of the state of Nebraska and is subject to the jurisdiction

of this Commission as to rates and service.

Under date of July 11, 1949, the Commission secretary issued a notice of public hearing and sent copies of this notice to interested persons of record as well as public officials in Paxton and the Paxton Times, which is the newspaper published in the community. This notice set forth the rate detail of this application and notified all persons that this case was set for hearing at 9:30 A. M., September 13, 1949, in the city hall in Paxton, Nebraska. All interested persons were invited to appear at the hearing and present evidence either in support of, or in opposition to, the application.

Prior to this notice of public hearing

## NEBRASKA STATE RAILWAY COMMISSION

ing there were several protests of record and following mailing of the notice, several other protests were received. Some of the protestants indicated that they would be present and appear in the hearing.

The hearing accordingly came on as scheduled before Commissioner Richard H. Larson and several protestants appeared and testified with regard to existing condition of their telephone facilities and their personal experience with telephone service which was strongly alleged to be inferior. The testimony of protestants was consistent in this respect and was convincing. It is the opinion of this Commission that cognizance should be taken with regard to the character of telephone service now being provided under present rates and that a provision must be made in this order to guarantee improved telephone service to subscribers which will meet the standards and definition of adequate, commercial telephone service without frequent failures.

It is found that as of the date of filing applicant operated a magneto type of service which was furnished over grounded telephone lines.

It is further found that applicant presently employs a prompt-payment discount plan, but requests discontinuance of this plan thereby making the proposed rates all on the net basis. A table by classifications of service, the number in each classification, the present and proposed net grounded rates, and the increase per month, is as follows: [Schedule omitted.]

Based upon the development of 290 stations the above-proposed grounded rates are computed to produce additional exchange revenue of \$269 per

month which is equivalent to, or at the rate of, \$3,228 per year.

Applicant has plans to convert the entire exchange to metallic service and also applies for authority to establish a schedule of metallic rates to become effective when and as metallic service is actually offered and made available to subscribers. A table of present and proposed net metallic rates by classes of service, the number in each classification, and the increase per month, is as follows: [Schedule omitted.]

Based upon present development the above-proposed net metallic rates are computed to produce additional exchange revenue of \$377.55 per month or at the rate of \$4,530.60 per year.

It is found that the above metallic rates as proposed by applicant are excessive. It is therefore an intention and provision of this order to modify and allow net metallic rates as follows: [Schedule omitted.]

The above metallic rates are authorized with the express provision herein that they are only to become effective when and as metallic service is actually offered to subscribers. The provision of this order in authorizing the modified metallic rates is merely to establish such initial rates in the tariff on file with this Commission.

Based upon the present development the above-modified, net metallic rates are computed to produce additional exchange revenue of \$308.25 per month or \$3,699 in a 12-month operating period following the effective date of such rates.

Applicant also applies for a change of rates and arrangements on business semipublic service. In the past applicant has been asking a guaranty equiv-

## RE PAXTON TELEPHONE EXCHANGE

alent to the rate on a business one-party for semipublic telephones. Under this arrangement subscribers, upon whose premises the set was installed have been receiving 20 per cent of the nickels collected over the guaranty.

Applicant states that it has 5 such stations which very seldom run over the guaranty and applicant has applications for 5 more semipublic telephones.

It is further stated that these stations take traffic time collecting nickels and applicant also has an additional investment of about \$40 per coin collector.

Applicant's petition requests the following rate on semipublic telephones: Subscribers to be billed same as any other business one-party telephone and then applicant pays the subscriber 50 per cent of local calls collected.

[1-3] After a careful consideration of this case this Commission has decided to issue this order on a conditional and interim basis as applied to the proposed grounded rates. The Commission takes note that substantial deferred maintenance exists in the telephone distribution plant. The plant was inspected by the chief engineer and the chief accountant of this Commission upon September 14, 1949. It is an expressed and specific provision of this order that the grounded rates shall only be allowed temporarily for one year beginning with January 1, 1950, and expiring December 31, 1950. This provision is made a part of this order to encourage and stimulate applicant to metallicize its lines and rehabilitate the entire system. Applicant testified that it was unable to attract capital funds to metallicize be-

cause of its existing alleged inadequate rate schedule. This provision will provide applicant with an established schedule of metallic rates calculated to produce a fair and reasonable return on the telephone property used and useful, so that applicant may approach potential credit sources with this overall long-range plan when such metallic rates are actually a fact, in existence, authorized, and ready to be applied.

It is a further provision of this order to direct the management of the telephone company to follow up promptly with a program of rehabilitation and maintenance so as to eliminate many difficulties testified to by the objectors in this proceeding. The Commission takes note of the representative and vigorous protests of testimony in the record and the Commission hereby directs applicant to give prompt attention to this matter. Several of the protestants agreed upon cross-examination that they would not object to the proposed grounded rates if the lines were properly repaired, maintained, and adequate commercial telephone service were provided.

It is a further provision and requirement of this order that applicant file with this Commission a signed written report on the first day of each month beginning with February 1, 1950, and the first day of each month thereafter until further order of this Commission, the following information:

(a) A list of subscribers' complaints lodged with the telephone company each month giving name and address together with the type of complaint.

(b) A summary showing rehabilitation work performed in the month

## NEBRASKA STATE RAILWAY COMMISSION

to which the report applies including metallic progress.

(c) A list of personnel working at the switchboard and on lines to include names, time of experience in such work, and current wages paid.

In the event applicant fails to meet all of the provisions, conditions, and requirements of this order, or in the event the reports required under this order are not complete and satisfactory, this Commission will by further order immediately fix a time for public hearing and receive such evidence as may be offered, and make and enter such final orders as may be necessary and proper under the evidence in order to marshal and preserve the resources of said operating company and insure that the same will be devoted to improving the service of said applicant and effectively correcting the complaints which have been made with reference thereto.

The Commission will maintain a close scrutiny over this plant and service condition in and around Paxton. Upon its own motion the Commission may make an investigation without notice to applicant.

An analysis of applicant's financial condition reveals that it has sustained a net loss for several years past. For 1948 total telephone operating revenue amounted to \$9,720.09 and total telephone operating expense amounted to \$10,282.92. Taxes were paid in the amount of \$338.18 and interest in the amount of \$475.72. This resulted in a net loss for 1948 of \$1,376.73.

The grounded telephone rates herein allowed and set forth above are computed to increase total telephone operating revenue from \$9,720.09 to \$12,948.09 in a 12-month operating

period following the effective date of new rates and based upon the present development of 290 stations.

Operating expenses are estimated to increase from the 1948 of \$10,282.92 to \$11,880.86. This is estimated to produce a net profit of \$253.33 under the proposed and allowed grounded rates. A financial review will be made of the effect of the metallic rates when such rates are made effective.

Under the evidence at hand it is the conclusion of the Commission that applicant cannot continue to absorb the high costs of operation without rate relief in some form. The Commission further is cognizant that commensurate telephone service does not presently exist, but the provisions of this order will require applicant to immediately take steps to correct this situation. The Commission is aware that it is in the public interest to maintain and retain a telephone system in and around the community of Paxton. To deny applicant some immediate increase in revenue would be to deny it due process of law under existing conditions. The Commission is further aware that there will be criticism from some sources in adopting this plan, however, the requirements and provisions of this order are pointing a way to applicant to a satisfactory solution of the over-all problem and the responsibility is solely upon the applicant.

Premises considered, the Commission is of the further opinion and finds that the application as to grounded rates is fair and reasonable, as modified, under the conditions and circumstances set forth above in this order, is compatible with the public interest, is necessary, appropriate for, and consistent with, the proper performance

## RE PAXTON TELEPHONE EXCHANGE

by applicant of adequate service to the public as a common carrier, and should be granted conditionally and on an interim basis specifically expiring December 31, 1950, all upon the conditions, terms, provisions, and requirements set forth above.

The Commission is of the further opinion and finds that the application for metallic rates as modified, to be effective when and as actually pro-

vided subscribers, is fair and reasonable, compatible with the public interest, is necessary, appropriate for, and consistent with, the proper performance by applicant of service to the public as a common carrier and should be hereby established in the tariff of applicant to become effective when and as metallic service is provided and actually made available to subscribers.

## FEDERAL POWER COMMISSION

### Re Panhandle Eastern Pipe Line Company

Docket No. G-1240

February 2, 1950

**A**PPPLICATION and petition for rehearing on order providing for curtailment of natural gas service; denied.

*Service, § 5 — Authority of Federal Power Commission — Natural gas — Curtailment — Shortage of supply.*

1. The Federal Power Commission has ample authority to prescribe just and reasonable rules and regulations to govern deliveries of gas from the system of a natural gas company during periods of shortage, p. 187.

*Service, § 146 — Curtailment during shortage — Natural gas — Available supplies.*

2. It is appropriate and proper for the Federal Power Commission to take into consideration increased volumes of gas which have become available to partial-requirement customers and large industrial loads expected to be served by such customers, in prescribing service rules and regulations with respect to natural gas deliveries from a pipe-line system; the Commission may consider the availability of gas from all sources in prescribing service rules and regulations for a single pipe-line system, p. 188.

*Service, § 5 — Jurisdiction of Federal Power Commission — Gas restriction — Powers of state.*

3. Prescription by the Federal Power Commission of service rules and regulations which require curtailment of large industrial loads when the facilities of a natural gas company are inadequate to meet the requirements of all customers does not constitute an invasion of the authority reserved to local bodies, since § 1(b) of the Natural Gas Act, 15 USCA § 717(b), gives the Commission jurisdiction over the sale of gas in interstate commerce for resale for industrial use and the rule of law that third-party

## FEDERAL POWER COMMISSION

relationships may be affected by public utility regulation is well established, p. 189.

By the COMMISSION: On December 9, 1949, in this matter we issued an "Interim Order Establishing Service Rules and Regulations" providing a plan of curtailment of natural gas during periods when the demands of customers exceed the capacity of the pipe-line system of Panhandle Eastern Pipe Line Company (Panhandle). The Service Rules and Regulations were made effective as of the date of issuance of the order and are to continue in effect until May 1, 1950.

As pointed out in our order issued December 9, 1949, the present estimated capacity of the Panhandle system is 500,000 thousand cubic feet per day. The evidence of record disclosed that this system capacity was less than adequate to meet the firm requirements of customers served from the system. To summarize the plan of allocation adopted, we used as a starting base for each "entire requirement" customer<sup>1</sup> the maximum firm send-out for the winter 1948, 1949 adjusted to 0° F, with additions to reflect the normal firm requirements of some of such customers, plus an allowance for increases in general domestic service; and as a starting base for each "partial requirement" customer<sup>2</sup> its entitlement under presently effective rate schedules on file with the Commission. The volumes thus arrived at totaled 516,867 thousand cubic feet, or 16,867

thousand cubic feet in excess of Panhandle's system capacity.

To effect the necessary curtailment of 16,867 thousand cubic feet excess of requirements over system capacity, a uniform 5.847 per cent was applied to the large industrial requirements of entire requirement customers during the winter 1948, 1949 and the large industrial loads expected to be served by partial requirement customers during the winter 1949, 1950. The percentage figure was computed by taking the large industrial loads of all customers, 288,468 thousand cubic feet, divided into the excess of firm requirement over pipe-line capacity or 16,867 thousand cubic feet.

With respect to the curtailment of the large industrial loads of partial requirement customers we considered the increase in the volumes expected to be utilized to serve such loads during 1949, 1950, over the loads served in prior years, as well as the large increases in the volumes of gas available to such customers from other sources than Panhandle.

Applications for rehearing and stay of the Commission's order issued December 9, 1949, were filed by The Ohio Fuel Gas Company on December 30, 1949,<sup>3</sup> and by the Public Utilities Commission of Ohio on January 3, 1950. A petition for rescission and vacation of the order or for rehearing

<sup>1</sup> "Entire requirement" customers means utilities dependent upon Panhandle for their entire supply of natural gas.

<sup>2</sup> "Partial requirement" customers means utilities having other sources of supply of natural gas.

<sup>3</sup> The application for rehearing and stay filed

by The Ohio Fuel Gas Company not having been acted on by the Commission by January 30, 1950, may be deemed to have been denied. The contentions of the company, however, are essentially the same as those made in the application of the Public Utilities Commission of Ohio.



## RE PANHANDLE EASTERN PIPE LINE CO.

thereof was filed by Illinois Power Company on January 6, 1950, and an application for rehearing was filed by The East Ohio Gas Company on January 9, 1950. The major contentions made in the applications and petition may be summarized as follows:

1. The Commission lacks authority under §§ 4 and 5 of the Natural Gas Act to adopt and prescribe service rules and regulations which affect or change the terms or conditions of Panhandle's rate schedules or its contracts with customers.

2. The Commission erred in considering the increased volumes of gas which have become available to The Ohio Fuel Gas Company and The East Ohio Gas Company from sources other than Panhandle in ordering curtailment of large industrial loads served by these two companies.

3. The adoption of a plan of curtailment with respect to large industrial loads constitutes an invasion of the authority reserved to local bodies.

[1] We have dealt with the first of these contentions in our order issued December 9, 1949, in this matter and in our Opinion No. 161, *Detroit v. Panhandle Eastern Pipe Line Co.* Docket Nos. G-200, G-207. In Opinion No. 161, 6 FPC 196, 204, 73 PUR NS 371, 378, we stated:

"The authority of the Commission to prescribe the emergency rules and regulations as classifications, rules, regulations, or practices, in connection with a rate schedule, to prevent discrimination under § 5(a) of the Natural Gas Act, [15 USCA § 717 d(a)], is fully sustained by the decision of the United States Supreme Court in the case of *Interstate Commerce Commission v. Illinois C. R. Co.* (1910) 215

US 452, 54 L ed 280, 30 S Ct 155, where analogous authority of the Interstate Commerce Commission was brought into question.

"By contentions of certain parties to the proceeding that the Commission is without authority to amend, alter, or change rate schedule provisions providing for the delivery by Panhandle of specified quantities of gas, which provisions are embodied in contracts between the parties, it is being urged in effect that the contract provisions involved be held inviolate against the statutory regulation provided for by the Natural Gas Act. Such contentions are clearly without merit, since such contracts, even though entered into prior to the enactment of the Natural Gas Act, are clearly subject to the provisions of that act and our regulation in the public interest. *Union Dry Goods Co. v. Georgia Pub. Service Corp.* 248 US 372, 63 L ed 309, PUR 1919C 60, 62, 39 S Ct 117, 9 ALR 1420; *Producers Transp. Co. v. California R. Commission*, 251 US 228, 64 L ed 239, PUR 1920C 574, 40 S Ct 131. In the *Union Dry Goods Company Case*, *supra*, it was aptly stated by the Supreme Court of the United States:

"Thus it will be seen that the case of the plaintiff in error is narrowed to the claim that reasonable rates, fixed by a state in an appropriate exercise of its police power, are invalid for the reason that if given effect they will supersede the rates designated in the private contract between the parties to the suit, entered into prior to the making of the order by the Railroad Commission.

"Except for the seriousness with which this claim has been asserted and

## FEDERAL POWER COMMISSION

is now pursued into this court, the law with respect to it would be regarded as so settled as not to merit further discussion.

"That private contract rights must yield to the public welfare, where the latter is appropriately declared and defined and the two conflict, has been often decided by this court."

In a case involving the powers of this Commission under the Natural Gas Act, *Michigan Consol. Gas Co. v. Panhandle Eastern Pipe Line Co.* (1948) 78 PUR NS 179, 183, 80 F Supp 27, 30, the district court stated as follows:

"The Supreme Court has asserted in a rate case that 'Section 5 of the act (the Natural Gas Act) was modeled on the provisions of the Transportation Act, 49 USCA §§ 13, 15 . . . ' *Federal Power Commission v. Natural Gas Pipeline Co.* (1942) 315 US 575, 584, 86 L ed 1037, 42 PUR NS 129, 137, 62 S Ct 736, 742. It is settled that the equivalent sections of the Transportation Act give to the Interstate Commerce Commission authority to regulate distribution of coal cars at times of shortage in order to prevent discriminatory distribution. *Interstate Commerce Commission v. Illinois C. R. Co.* (1910) 215 US 452, 54 L ed 280, 30 S Ct 155. As stated in *Panhandle Eastern Pipe Line Co. v. Indiana Pub. Service Commission* (1947) 332 US 507, 520, 92 L ed 128, 71 PUR NS 97, 104, 68 S Ct 190, 197, the act 'does not contemplate ineffective regulation at either [the Federal or state] level.' While it seems clear enough that Congress expressly authorized the Commission to allocate the supply of natural gas to prevent discriminatory practices this court

may well adopt the reasoning in *Colorado Interstate Gas Co. v. Federal Power Commission*, *supra* ([1944] 54 PUR NS 1, 11, 142 F2d 943, 952) that 'the grant of powers expressly conferred upon the Commission carried with it by implication all authority reasonably necessary and fairly appropriate to make such powers fully efficacious, and to render effectual the discharge of the duties of the Commission.'"

This opinion of the district court was affirmed by the court of appeals in *Michigan Consol. Gas Co. v. Panhandle Eastern Pipe Line Co.* (1949) 80 PUR NS 448, 173 F2d 784.

Thus it clearly appears from the foregoing and from the opinion of the Supreme Court in *Panhandle Eastern Pipe Line Co. v. Indiana Pub. Service Commission* (1947) 332 US 507, 523, 92 L ed 128, 71 PUR NS 97, 68 S Ct 190, that there is ample authority in this Commission to prescribe just and reasonable service rules and regulations to govern the deliveries of natural gas from the system of a "natural-gas company" during periods of shortage.

Section 4 of the Natural Gas Act, as well as § 5, provides an adequate legal basis for our order. See *Ayrshire Collieries Corp. v. United States* (1949) 335 US 573, 93 L ed 243, 69 S Ct 278.

[2] With respect to the second contention set out above, we are of the opinion that it was appropriate and proper to take into consideration the increased volumes of gas which have become available to the partial requirement customers and the large industrial loads expected to be served by such customers in 1949, 1950 in prescribing

## RE PANHANDLE EASTERN PIPE LINE CO.

ing service rules and regulations with respect to natural gas delivered from the Panhandle system. The percentage of curtailment with respect to large industrial loads, 5.847 per cent, was applied alike to the large industrial loads of the partial requirements customers (loads expected to be served in 1949, 1950), and to the large industrial loads of entire requirements customers presently attached.

The record in the proceeding shows, as we pointed out in our order issued December 9, 1949, that the supplies of gas available on a peak day to the partial requirement customers from sources other than Panhandle have increased since issuance of our Opinion No. 161, from 1,267,969 thousand cubic feet to 1,931,320 thousand cubic feet. During the winter period for which the allocation was made by Opinion No. 161, the large industrial load expected to be served was estimated at 80,055 thousand cubic feet. This has increased until that expected to be served during 1949, 1950 is estimated at 257,892 thousand cubic feet.

The large industrial load included for the entire requirement customers in Opinion No. 161 was 27,319 thousand cubic feet. For the purposes of the service rules and regulations for 1949, 1950 we used an adjusted 1948, 1949 firm industrial load volume of 30,576 thousand cubic feet. These figures compare with an over-all increase in the delivery capacity of the Panhandle system for both partial requirement customers and entire requirement customers of 56,000 thousand cubic feet.

With respect to the Ohio companies which have applied for rehearing the record shows that the large firm in-

dustrial loads have increased as natural gas became available from sources other than Panhandle. The East Ohio Gas Company at the time of Opinion No. 161, *supra*, anticipated a peak-day supply of gas from all sources of 552,000 thousand cubic feet and expected to serve large industrial load to the extent of 35,500 thousand cubic feet. During 1949, 1950, it expects a peak-day supply of 767,659 thousand cubic feet, an increase of 215,159 thousand cubic feet, and estimates that it will serve large industrial loads to the extent of 92,463 thousand cubic feet, an increase of 56,963 thousand cubic feet.

Similarly the natural gas supply available to The Ohio Fuel Gas Company on a peak day has increased from 556,382 thousand cubic feet to 821,100 thousand cubic feet, or an increase of 264,718 thousand cubic feet. The large industrial load expected to be served has increased from zero to 86,000 thousand cubic feet.

There is ample warrant in law for the Commission, in view of the facts just stated, to give consideration to the availability of gas from all sources in prescribing service rules and regulations for a single pipe-line system. See *Logan Coal Co. v. Pennsylvania R. Co.* (1907) 154 Fed 497; cf. *Interstate Commerce Commission v. Illinois C. R. Co.* (1910) 215 US 452, 54 L ed 280, 30 S Ct 155.

[3] The contention that the prescription of service rules and regulations which require curtailment of large industrial loads constitutes an invasion of the authority reserved to local bodies is without merit.

Section 1(b) of the Natural Gas Act, 15 USCA § 717(b), specifically

## FEDERAL POWER COMMISSION

gives the Commission jurisdiction over the sale of natural gas in interstate commerce for resale for industrial use. The rule of law that third party relationships may be affected by public utility regulation is too well established to require extended argument. A reference to the many decided cases amply demonstrates that the contention that the Commission has exceeded its jurisdiction is without foundation. See *Ambassador, Inc. v. United States* (1945) 325 US 317, 324, 89 L ed

1637, 58 PUR NS 193, 65 S Ct 1151 and also the many cases cited, footnote 3, 325 US at p. 323, 58 PUR NS at p. 197.

We are of the opinion that other contentions made with respect to procedure are without merit and require no discussion.

Wherefore, in view of the foregoing we order:

The applications and petition hereinbefore referred to be and they hereby are denied.

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

Ernest Turtzo

v.

The Bangor Water Company

Complaint Docket No. 14933  
February 27, 1950

**C**OMPLAINT against alleged failure of water company to comply with agreement relating to service extensions, customer contributions, and refunds; dismissed.

*Service, § 48 — Commission jurisdiction — Extension agreement.*

The Commission has no jurisdiction to enforce an agreement between a water company and an individual relating to service extensions, customer contributions, and refunds.

By the COMMISSION: Ernest Turtzo, on January 19, 1950, filed his complaint against The Bangor Water Company, respondent, alleging that the company had agreed to refund to him, over a period of ten years, the cost of installing an extension of a water main, and that it now refuses to abide by said agreement. Complainant

seeks to have the Commission enforce said agreement.

Notice of the filing of the complaint was sent to respondent water company on February 9, 1950, and on February 17th, this Commission received respondent's motion to dismiss. Respondent contends that this Commission has no jurisdiction to construe or

## TURTZO v. BANGOR WATER CO.

enforce agreements of the nature set forth in the complaint. The motion to dismiss will be granted.

Complainant avers that, contemplating a building project, he discussed water service with respondent's superintendent; that it was agreed that complainant was to advance the money required and respondent would refund the same over a period of ten years in payments of  $3\frac{1}{2}$  times the average metered domestic consumers' revenue; that complainant advanced and deposited with respondent the sum of 1,500; and, that thereafter respondent asserted an understanding that the refund should be only \$125 "to be made from the average metered domestic consumers' revenue including the tap or taps made by the complainant hereto."

The gravamen of the complaint is a breach of contract. The remedy, if any, to enforce contractual rights is

vested in the courts. See *Blumenthal v. Philadelphia Suburban Water Co.* (Pa 1938) 25 PUR NS 53; *Patterson v. Philadelphia Suburban Gas & E. Co.* 7 Pa PSC 731, PUR1926D 1; *Paxson v. Philadelphia Suburban Counties Gas & E. Co.* 10 Pa PSC 253, PUR1930C 121. Notwithstanding the broad jurisdiction conferred upon this Commission, the legislature has never delegated to it power to enforce contracts of the nature involved. It is immaterial, therefore, that the agreement was made subsequent to enactment of the Public Utility Law; therefore,

It is *ordered*: That the motion of The Bangor Water Company, respondent, to dismiss the complaint of Ernest Turtzo be and the same is hereby granted, and that the complaint of Ernest Turtzo be and the same is hereby dismissed.

### WISCONSIN PUBLIC SERVICE COMMISSION

George P. Jack

v.

Village of Frederic, Polk County

2-U-3169

January 27, 1950; rehearing granted March 1, 1950

**C**OMPLAINT by home owner against municipal water utility's refusal to extend service outside municipal limits; extension ordered.

*Service, § 204 — Municipal water utility — Extension beyond village limits.*

1. The attempt of a village by ordinance to prohibit future extensions of its water lines beyond village limits, after once having so extended the scope of its undertaking, is without effect, p. 192.

## WISCONSIN PUBLIC SERVICE COMMISSION

### *Service, § 204 — Municipal water utility — Service outside limits.*

2. A municipal water utility which has rendered service to residences outside village limits will be required to continue to do so, notwithstanding a decision of the village board to the effect that no further rural extensions would be permitted, p. 192.

By the COMMISSION: George P. Jack, Frederic, Polk county, filed a complaint with this Commission on June 17, 1949, that the village of Frederic, as a water public utility, has refused to extend water service to the premises owned and occupied by him in the town of West Sweden, Polk county. Notice of investigation and hearing and assessment of costs was issued November 15, 1949.

APPEARANCES: Dr. Hubert Witte, Village President, Mrs. Mary Peake, Village Clerk, and H. C. Pederson, Chairman of the Water Commission, for the village of Frederic; George P. Jack, appeared in person, for complainant.

### *Opinion*

[1,2] The Jack residence lies approximately 88 feet north of the village and fronts on an extension of Polk avenue which runs north and south through the village. Mr. Jack requested water service but was denied an extension. The village of Frederic has on two occasions extended its undertaking to serve beyond the village limits and into the town of West Sweden, in the area wherein the premises of applicant, George P. Jack, are located.

Approximately two years ago the village board decided that no further rural extensions would be permitted. The attempt of the village to forbid any future extensions after extending the scope of its undertaking outside its limits without receiving authorization under § 196.81, Statutes, must be held to be of no effect under the decision in *Northern States Power Co. v. Public Service Commission* (1944) 246 Wis 215, 58 PUR NS 377, 16 NW2d 790.

The Commission finds: That the village of Frederic, Polk county, as a water public utility, has undertaken to render service beyond the village limits into the town of West Sweden, in an area which includes the premises of George P. Jack.

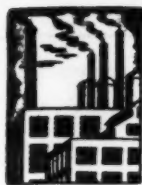
The Commission therefore concludes: That an order be issued in conformance with the foregoing findings of fact.

### ORDER

It is therefore *ordered*:

That the village of Frederic, Polk county, extend its water service to the residence of George P. Jack in the town of West Sweden, such extension to be made on or before June 1, 1950.





# Industrial Progress

*A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.*



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## G-E Issues Bulletin on Remote Control Wiring

**A NEW** booklet, "Remote Control Wiring" published by the construction materials department of General Electric Company, is now available, free of charge, to those interested in this revolutionary new method of lighting control for home and farm.

As explained in the booklet, the principle advantage of this system is that lights, outlets,

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Mr. Croner is particularly well qualified for this important position, having been identified with the automotive industry virtually his entire business life. For the past three years he has been responsible for the company's purchases of materials and supplies.

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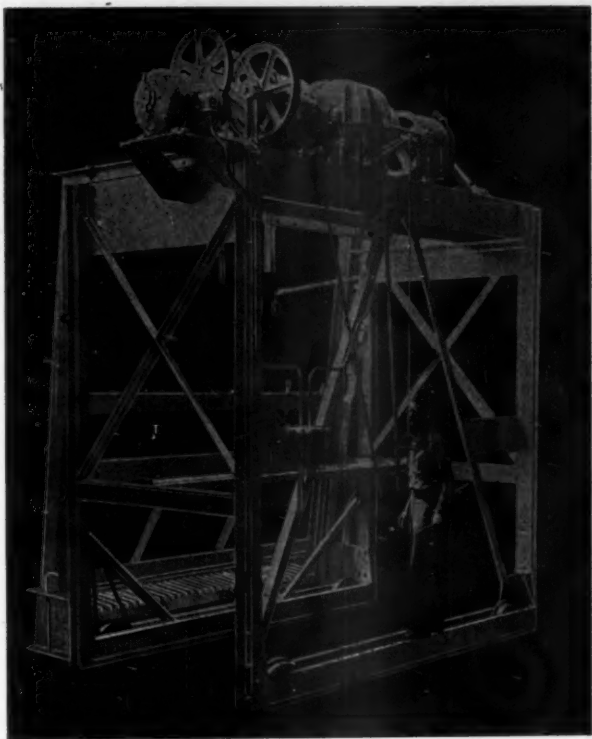
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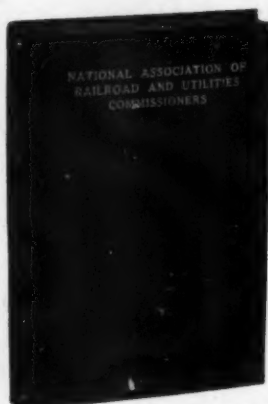
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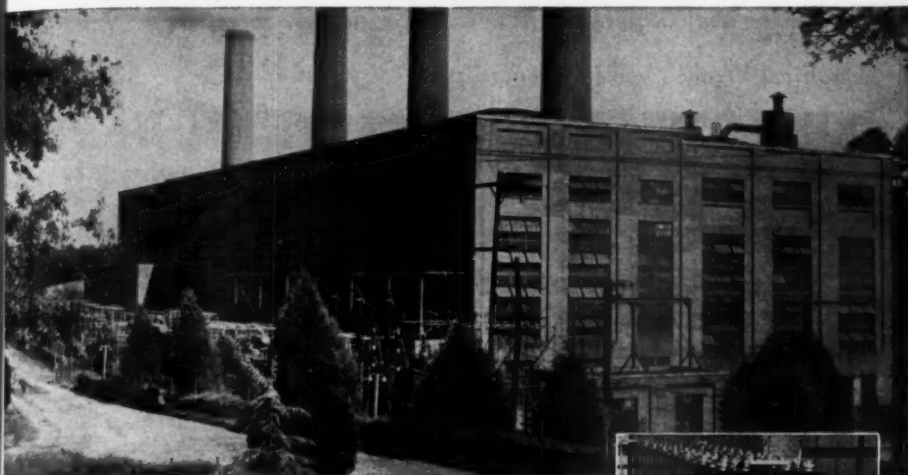
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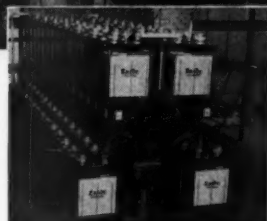
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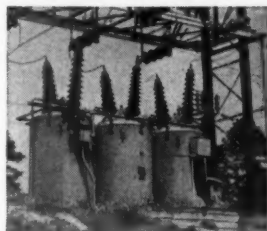
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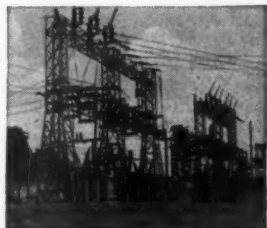
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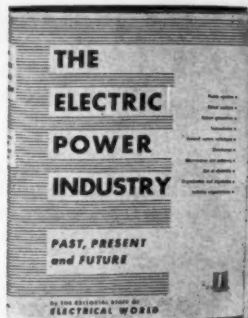
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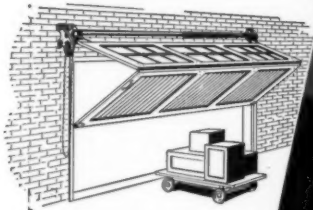
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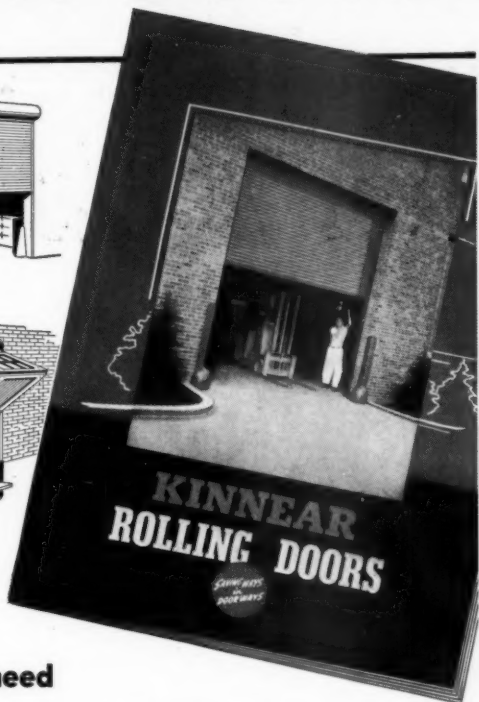
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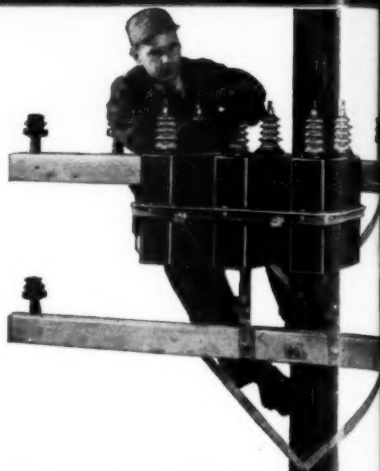
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